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INTERNATIONAL RELATIONS AS VIEWED FROM GENEVA

BY

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FOREWORD

The author wishes to express his sincere appreciation to several of his former colleagues of the Secretariat of the League of Nations for supplying him with some of the data on which these lectures were based. He wishes to thank very cordially also his former master and friend, Professor Edwin F. Gay, who has kindly consented to read over the proofs of his book. His warmest gratitude is due to President Garfield and Professor McLaren of the Williamstown Institute of Politics, as well as to all the other officials of that most remarkable institution, for the extreme kindness which they have shown him in the course of a most pleasant and interesting month spent in their company. He carries back with him to Switzerland and to the seat of the League of Nations none but the kindliest and most appreciative recollections, as well as very fond and ardent hopes for the future.

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INTRODUCTION

Without the perseverance of the historical students and the penetration of the historian, few people, by reading debates and reports of committees, can form a true conception of the work done by a great institution. Someone must point out the trails through the forest, and that is what Professor Rappard has done for the League of Nations by his Williamstown lectures published in this book. It is obviously not possible to cover in six lectures all the labors of the League, and he has therefore selected a number of topics and events, typical of its various activities, which give a more lucid impression than an attempt to survey the whole ground. For this purpose he groups the functions of the League under three heads, which he personifies by speaking of the organization as three leagues—a league to execute the peace treaties, a league to promote international cooperation, and a league to outlaw war.

The first of those functions has, he says, been carried out in the main by the few countries most directly concerned; and, in fact, the makers of those treaties did not foresee that their execution would encounter so many difficulties, or take so long a time, as has proved to be the case. In the promotion of international coöperation, on the other hand, all the members have taken part. It covers a wide field, and our author evidently regards it as the most fruitful for the League. The expression used to denote the

last function of the triad—to outlaw war,—is vague, and was perhaps intended to be so. Professor Rappard considers it under two heads, the effort to substitute justice for armed conflict, and the sanctions to preclude war; pointing out in each case the divergences of opinion, with the grouping of the members in regard to them. The effort to substitute justice for war culminated in the creation of the Permanent Court of International Justice—a great achievement in the path which all nations have purported to follow, but which they have found it hard to tread. To the Court a large majority of the members of the League have adhered; although only twenty-three of them have signed the optional clause making its jurisdiction compulsory, and these are for the most part the smaller states. In the matter of sanctions, the tendency has been to reduce their potency by interpretation, until their efficacy is doubtful and the obligations assumed have ceased to be a source of anxiety. Almost all orderly nations desire peace throughout the world, but few are ready to pay the price. Many feel the need of security; and, indeed, want their neighbors to feel safe also, that armaments may be reduced, but they shrink from the risk of joining in the guarantee.

Anyone wishing to understand the actual operation of the League, the major problems with which it has dealt, its method of handling them, and the obstacles it encounters, will find them nowhere else set forth so clearly, and in so small a compass, as in Professor Rappard's lectures on International Relations as Viewed from Geneva.

A. Lawrence Lowell.

INTRODUCTION

It is a fact of common experience that the tales which travellers tell on their return from trips abroad differ at least as much according to their points of view, as according to the sights they have seen. Indeed the same sights, described from divers points of view, often appear more different than various sights seen by the same traveller from the observatory of his own peculiar habits of mind, his individual tastes, his personal curiosities, and his national and social prejudices.

What is true of travellers is not less true of students of present-day politics. The international landscape, in particular, is so varied in its aspects and is susceptible of so many divergent renderings that an audience, before listening to the presentation of any topic and in order to draw its own conclusions from what it hears, should be interested in knowing, and is entitled to know, where the speaker comes from and where he stands.

At the risk therefore of seeming unduly pedantic or egotistic, I would ask to be allowed to preface my observations on contemporary international relations by a brief statement concerning the position from which I shall consider them.

Geneva is the principal town of the French-speaking part of neutral Switzerland. For more than three hundred years, Geneva was a diminutive independent republic surrounded by rival monarchies. In the sixteenth century, this city-State became one of the storm-centers of religious strife and one of the chief places of refuge of persecuted French and Italian protestants. Throughout the eighteenth century it was the scene and the victim of violent internal revolutions tending toward the establishment of political equality. Rousseau was the herald of the French revolution because he was a citizen of Geneva. Annexed to France during the Napoleonic period, against the will of the overwhelming majority of her inhabitants, Geneva regained her independence in 1814 and was, at her request, admitted to the Swiss Confederation a few months later.

Her historical traditions, her neutral status, and her geographical position, near the watershed of three great European civilizations, have given her a peculiar international outlook and have, in the course of the nineteenth century, made of her the center of various international activities. The fact that the international Red Cross movement not only has its cradle in Geneva, but sprang from the spontaneous initiative of citizens of Geneva, is perhaps the most significant, though by no means the only individual symptom of what one might call the international temper of the local population.

Without territory, without wealth, without power, Geneva has naturally seen the ambitions of her citizens directed to moral and intellectual rather than to material ends. Might and the mighty have always, throughout her tormented history, threatened her

very existence. Toleration has become a Swiss habit, as toleration is the necessary condition for the peaceful coexistence, under a common sovereignty, of peoples of different creeds and languages. Justice is a national ideal passionately revered, as justice is the only sure safeguard against internal dissension as well as one of the only lasting bulwarks against oppression from without.

The philosophy of international relations, which has thus been bred, is not to be ascribed to any inherent moral superiority on the part of the inhabitants of Geneva. It is obviously the product of history and geography, shaped by sheer force of circumstance. It is not because we Swiss are, by some act of grace, capable of maintaining loftier ethical standards than other Europeans, that, as we sometimes feel, we have a higher regard for liberty and justice than at least some of them. It is essentially because our own domestic experience has taught us that different peoples can found a common existence, permanent and peaceful, on no other basis than liberty and justice. It is also because, in the realm of foreign politics, liberty and justice are never seriously violated except at the expense of the weak.

As municipal law is the sole protection of widows and orphans, so is international law, in the last resort, the sole protection of small nations. And Switzerland, with her population of less than four millions of inhabitants, and in spite of her not inglorious military tradition, is and feels herself a small nation in the very heart of turbulent Europe.

Viewed from Geneva, international relations of

to-day cannot be considered of course except under the sign of the League of Nations, which since 1920 has its seat there. But the League is not a wall which limits the horizon. It is comparable rather to a prism in which the politics of the nations are reflected or to a telescope through which they may be observed and studied at close quarters. It would perhaps be simpler and more accurate to say that the League itself is but the expression of the common effort of its member States coöperating with a view to certain definite ends. To study international relations from Geneva to-day is therefore primarily to study the League of Nations.

I shall attempt to do so as one who has been for over four years a member of the Secretariat of the League and who is still personally connected with it as a member of the Mandates Commission. But I shall do so with that entire freedom of thought and of speech and with that unsparing frankness which are both the privilege and the duty of a university man addressing an academic audience.

To make my fundamental position with regard to the League quite clear from the start, I may say that I believe its essential aim, the substitution of law and order for chaos in international relations, to be so absolutely beneficent and so clearly in the line of human evolution, that no one but a madman or a criminal can repudiate it. As in the course of history the instinct of preservation drove individuals into organizing their groups into States, so, I am convinced, States cannot indefinitely live together on the surface of the globe without organizing themselves into some kind of larger political unit for the mutual protection of its component parts. That, as

I see it, is but a matter of time. As a citizen of a country which witnessed at close quarters the destructive fury of the last war, I would add that it was high time they did so, if civilization is to survive.

Further it appears to me that this larger political unit in its first stages must inevitably, in its structure and functions resemble the present League, as outlined in the Covenant. However, I am the first to admit that this League is as yet very far from having fulfilled the purposes for which it was created and that, in spite of many admirable and useful efforts, its present status and achievements still fall far short of the hopes and ambitions of its founders or, at least, of the hopes and ambitions raised by its founders. This is due in part to the fact that the mills of history grind very slowly, whereas human imagination flashes as lightning when once it has been stirred by intolerable suffering or fired by great visions. But it is due also to many unfavorable circumstances surrounding the birth of the League, the most decisively unfavorable of which, in my estimation, has been the absence of Germany, Russia, and above all of the United States of America.

I shall have occasion to revert to this important question in the course of my exposition. It is, I have been warned, an extremely delicate question. Indeed I would not have needed these kindly warnings to realize that under other circumstances it might very rightly have been held to be so. Were I engaged on a political mission or on a propaganda tour, it would not only have been delicate, but even quite indelicate, for me as a foreigner to make any statement which might be construed as implying a criti-

cism of the policy of the country whose guest I have the privilege to be.

It is evident to all, however, I take it, that I am fortunate enough to be here in a purely private capacity and that I am speaking solely as a student to students. Not only have I no official mandate from anyone, but I hold no brief for any cause, save that of truth, as I see it. Even if I thought that anything I might say would in anyone's mind injure the cause of the League, which I deem essentially to be a just cause, I should not hesitate to say it here.

With all reverence and gratitude to William James, I am not enough of a pragmatist to believe that truth is not truth, when it is inopportune. But on the other hand I am too much of an optimist not to be convinced that in this matter of America's relations to the League, as well as in the whole problem of the League itself, there are no inopportune truths. I even suspect that the desire to disguise unpalatable facts, which animates certain League enthusiasts and which not infrequently leads them even to assert facts held to be opportune but hardly acceptable as authentic, has done more harm than good to their cause in the minds of thoughtful men and women.

However that may be, my own position is perfectly clear in this matter and will not, I trust, give rise to any misconceptions. I am intent solely on showing the League as I see it. I believe it has everything to gain and nothing real to lose by being known and understood in its difficulties and shortcomings as well as in its successes. I believe its fundamental principle to be so sound that it will stand the test of the most unsparing critical analysis. And

nothing can help the League more than such analysis revealing its imperfections and weaknesses to public opinion which alone can cure it of them. Be that as it may, I wish neither to help nor to injure the League in the minds of my hearers, but merely to try to describe and explain it. If the League could not survive frank and impartial discussions it would not be worth discussing, still less misrepresenting. If it could thrive and prosper only on a diet of illusions, misconceptions, and official optimism, well then, it could and should not live at all.

There are two great countries in which the League has been thoroughly and exhaustively studied on the basis of the documents it has produced. These countries are those for which it is still a theoretical problem more than a political reality: Germany and the United States. In this American Institute of Politics which we from across the sea have come to regard as the giant lighthouse illuminating even our far-off benighted continent, in this center of post-post-graduate studies, which we professors approach with peculiar awe and trembling, because we know that we address here colleagues who share our professional delight in spotting inaccuracies of fact and fallacies of reasoning, it is as unnecessary as it would be rash, to venture on an analysis of the Covenant and of subsequent League literature. My purpose is to examine the institution whose nerve center is in Geneva, not in the light of printed material but as it appears to one on the spot who has been associated, however modestly, with its beginnings and first activities. Familiarity with much that may be

learned from documents will be taken for granted and that which direct observation alone can reveal will be correspondingly stressed.

CHAPTER I

THREE LEAGUES IN ONE

On January 24, 1919, the Paris Peace Conference adopted the following resolution:

> It is essential to the maintenance of the world settlement, which the Associated Nations are now met to establish, that a League of Nations be created to promote international coöperation, to ensure the fulfilment of accepted international obligations, and to provide safeguards against war.

A close analysis of this text and of the Covenant which was drafted as a result of its adoption, as well as even a cursory study of the League's activities in the course of the last five and a half years, will show that what came into being in Paris in 1919 was not one League of Nations, but in reality three Leagues in one: a League to execute the peace treaties, a League to promote international coöperation, and a League to outlaw war.

It is true, of course, that the fundamental charter of these three Leagues is one Covenant, that to a certain extent they have the same representative organs, and that in the Secretariat of Geneva they possess a common international civil service. But if, disregarding external appearances and legalistic forms, we consider only political realities, we will soon discover that the three Leagues are as unlike in effective membership, in structure, and in spirit, as they are in function.

The League to execute the peace treaties theoretically includes all those States which have ratified the Covenant and none but those. As a matter of fact,

however, only a limited number of States have taken and are taking a real part in the carrying out of the peace settlement and they are not all formally members of the League. A glance at the treaties and a hasty survey of the action taken in execution of their terms will show and explain this very clearly.

The main provisions of the Covenant and of the peace treaties relating to the duties of the League in the execution of the latter are those dealing with mandates, the Saar basin, Danzig, minorities, military clauses, various plebiscites, choice of chairmen of mixed arbitral tribunals, ways of communication, and sundry other matters of minor importance. In almost all these clauses reference is expressly made to the Council of the League and even when, as in those relating to Eupen and Malmédy, the League itself is mentioned, the Council alone has acted on its behalf. Moreover the most important tasks arising out of the peace treaties which have been subsequently entrusted to the League, such as the settlement of the Aaland Islands dispute, and of the Upper Silesian, Vilna, Memel, and Mossul questions, have all been referred to and dealt with by the Council alone.

Now the Council is composed of the representatives of a very small number of States, eight until 1922, ten since that date. As their action in executing the peace treaties is taken on the sole responsibility of the governments they represent and can give rise to no appeal before the other members of the League, they obviously constitute an inner circle. The States represented on the Council may therefore properly be considered as forming within the general League, a special League to execute the peace treaties. It is

at present composed of the four principal Allied Powers, Belgium, Czecho-Slovakia, Brazil, Uruguay, Spain and Sweden. Of these, all but the last two were victorious belligerents in the world war. The Spanish representative on the Council has since the origin of the League been the Spanish ambassador in Paris whose policy it has not unnaturally been to ingratiate himself with his colleagues in order to retain his seat on the Council, to protect his country in its present plight against any unfriendliness on the part of the great Powers, and to enhance the favor with which he is regarded in Paris.

The only member of the League to execute the peace treaties who is in a position to do so in a spirit of independence, impartiality, and disinterestedness is therefore Sweden. She has played her ungrateful part admirably. Being a small Power, however, and, in contentious matters, often in a minority of one, she has but been able to show what the Council might be and might do for the true pacification of the world if its members were actuated less by narrowly national motives and more by a sense of loyalty to the international community as a whole. Although often alone on the Council, she has enjoyed the support of informed liberal opinion the world over, particularly in the British Parliament. Her example has given a foretaste of what a country no less independent, impartial, and disinterested, but incomparably more powerful might be and do in the interests of peace, if she could see her way to accept the moral leadership which awaits her representative at the Council table.

The members of the general League who do not belong to the Council have no direct concern with

the execution of the peace treaties. Some of them, it is true, being parties to these treaties, are not infrequently invited to send representatives to sit as members of the Council when a matter in which they are specially interested is considered. They then, for that particular purpose, become members of the League to execute the peace treaties.

It may be said also that even the former neutrals who are not represented on the Council have a certain indirect interest in the activities of this inner circle. This is doubtless quite true. The administration of the Saar and the reconstruction of Austria are matters which present a very real, even though not an immediate interest for my country, for instance. In such cases the annual debate at the Assembly on the report of the Council offers an opportunity for discussion, but not for action. This opportunity is, however, very often expressly waived, as the members of the Assembly may well have their reasons for not wishing to assume any responsibility for policies which they have no voice in shaping.

The following statement, made by M. Motta, the Swiss representative at the Assembly, on September 7, 1922, clearly shows the respective positions of States on the outer and on the inner circles of the League.

> . . . The Assembly is not superior to the Council, nor is the Council subordinate to the Assembly. They are coordinate organisations, each endowed with equal powers. The Council as such is not even represented in the Assembly, as any member of the Council who speaks here does so in the capacity of a delegate representing his country in the Assembly. We have not even the right to approve or

disapprove the Council's actions. Our discussions on the Report on the work of the Council must therefore necessarily—I might almost say, fortunately—consist in a general exchange of opinions concerning the ideals and the activities of the League of Nations in every phase of its existence.

The League to execute the peace treaties is thus, by mutual consent, distinct from the general League. The prevailing sentiment of at least some of the dominant members of the former might perhaps be summed up as follows: "We won the war. We dictated the peace. It is for us to see that the terms of the peace are carried out in conformity with our intentions. We are prepared to allow you to coöperate in this task, but only, of course, in so far as you are willing to prove helpful."

To this invitation many of those on the outer circle are inclined to reply: "We were fortunate enough not to be drawn into the war. We deem ourselves hardly less fortunate not to have assumed any responsibility for your peace. The less we have to do with the enforcement of its provisions, the happier we shall be. May we add that as long as you prefer to display the spirit of predatory victors rather than that of impartial judges, the League of Nations as a whole, in our modest estimation, has nothing appreciable to gain, but much to lose by being associated with your action?"

Obviously no one expresses such undiplomatic sentiments with such deplorable frankness in Geneva! But behind the polite phrases exchanged at the Assembly during the discussion of the report of the Council, it does not need very much imagination to discover feelings of this order on both sides.

The members of the League to execute the peace treaties have often in their special task had more contact with States outside the general League than with many of those within it. Thus it may in a way be said that the United States, Germany, and Turkey, by the consideration they have given such matters as mandates, the Saar, Upper Silesia, and minorities, have almost qualified as associate members of the League to execute the peace treaties. At any rate, they have remained less foreign to its activities than Chile, Norway, and Switzerland, for example.

In calling upon the League to coöperate in the carrying out of the peace treaties, its founders seem to have been actuated by two motives. On the one hand they wished to give it vitality, by implicating it in matters of immediate concern to large portions of mankind. However indifferent those thus affected might be to its main aim as a potential peace-maker, they could not, it was expected, repudiate or disregard it as a piece of importance on the political chess-board of the day. On the other hand the League was used as an instrument of compromise to settle any troublesome questions which threatened to break the unity of the Allied front.

In the light of the experience of the last six years, it may be said to have at least partly fulfilled both these purposes. The League to execute the peace treaties has contributed its full share to the publicity sought and gained by the League as a whole. Although it could not bring the American Senate to accept the Covenant, it has fostered and maintained interest in the League in many quarters, both official and popular, which might otherwise have remained

aloof. But, deprived of the immediate coöperation of America, which would undoubtedly have made for moderation, impartiality, and justice in the execution of the peace treaties as it had so conspicuously done in their drafting, the Council has too often used its unbalanced power in the national interest of its members rather than in the general interests of the international community. Thereby it may have lost in public confidence part of what it has gained in public notoriety.

It should not be forgotten, however, that, had it not been for the League to execute the peace treaties, these treaties would presumably have offended much more harshly against the principles of self-determination, which in spite of all that may be and has been said in criticism of them, are after all the guiding principles of democratic international justice. Had it not been for this League, which to some extent at least protected their inhabitants, the Saar, Danzig, all Upper Silesia, and the mandated territories would in all probability have been purely and simply annexed by the victors and the racial and religious minorities would have been subjected to the arbitrary rule of their new masters.

If therefore, as I believe, the League to execute the peace treaties has weakened rather than strengthened the League as a whole, it has, on the other hand, strengthened rather than weakened the peace settlement as a whole. For the League it is a liability, but for the peace it is, although rather heavily mortgaged, an asset. Europe and the world are the better for the League to execute the peace treaties. But they would, of course, be the better still for a more

perfect League to execute more perfect peace treaties.

The League to execute the peace treaties was the product of the conscious will of the framers of the peace settlement. The League to promote international coöperation, although foreshadowed in the Covenant, is essentially a subsequent development.

In the first line of the preamble of the Covenant, it is true, the High Contracting Parties assert that one of their aims is "to promote international cooperation." But, of the twenty-six articles of that historical instrument, two only deal with the specific objects and methods of this coöperation and then only in the vaguest terms. No special machinery is provided for the purpose. Of the two consultative committees set up by the authors of the Covenant, one, the Permanent Mandates Commission, belongs to the League to execute the peace treaties, and the other, the Permanent Military Commission, to the League to outlaw war.

Even before the League was completely organized it became clear that it might find in the field of international coöperation one of its most useful, as well as one of its first and least difficult functions. It was rightly felt that the main purpose of the League, the prevention of war, could perhaps be more readily and more effectively served by the consolidation of peace than by the repression of violence. This was all the more true as the original conception of a League to enforce peace had failed to gain universal acceptance and was repudiated in fact by most of the signatories of the Covenant, not less than by those States which had remained aloof for fear of dangerous and entangling commitments.

In order to consolidate peace it was deemed advisable to seek to improve international relations by developing the habits of coöperation toward ends of common welfare and by settling through conventions many matters which, if left unregulated, might give rise to friction and conflict.

The spirit of friendly coöperation and honest compromise which this coöperation has, in the course of the last years, very happily succeeded in fostering in Geneva, is perhaps the greatest achievement of the League. It is to this spirit as well as to the technical methods adopted to give it free play, that, to quote only a few instances, thousands and tens of thousands of prisoners of war owe their speedy repatriation from the East, that Western Europe owes its protection against the epidemics which threatened it from the plains of Russia, that Austria owes its salvation and Hungary its reconstruction, and that the labor movement has in many lands been diverted from the dangerous regions which border on revolution toward the fair valleys of peaceful social progress.

In order to pursue these and many similar objects the League to promote international coöperation has devised new methods and new structural contrivances. The Covenant had provided only for two representative, political bodies, the Council and the Assembly, for an administrative bureaucracy, the Secretariat, for a judicial tribunal, the Permanent Court of International Justice, and for the two above-mentioned international commissions. If the various fields of economics and finance, communications and transit, public health and public morals, were to be successfully tilled by international effort,

it was obviously necessary to perfect and to complete this machinery. Technical committees were therefore set up somewhat on the model of the inter-allied organizations which, during the war, had been instrumental in solving problems of shipping control, purchasing in common, and international rationing.

Although these various committees differ in membership, mode of appointment, and methods of work, they all have one and the same essential feature: their functions are purely technical and advisory. Some, as the special commission on double taxation and fiscal evasion and the Advisory Committee on Communications and Transit, are composed of government officials selected by their respective governments; the members of others, as of the Economic and Financial Committees or the Committee on Intellectual Coöperation, are international experts selected by the Council of the League; still others, as the advisory Committees on Traffic in Opium and on Traffic in Women and Children have both official members and unofficial assessors.

In all cases, these organizations, whose members are as a rule in a position to know and in many cases to influence the policies of the governments of their respective countries, do no more than prepare plans of common action or draft suggestions for international conventions. It is then for the States represented in the Assembly, in the Council, or in specially summoned international conferences to consider and give effect to the proposals submitted by the advisory committees.

The membership of the League to promote international coöperation is by no means limited to the

signatories of the peace treaties or to those States which have accepted the Covenant. Besides these, it has from the start intermittently included the United States, Germany, Turkey, Egypt, and even Russia. Not only have a great number of eminent Americans sat on League committees or accepted League appointments, as for instance, Miss Grace Abbott, Dr. Rupert Blue, Mr. Willis H. Booth, Bishop Brent, Dr. Hugh S. Cumming, Professor Herbert Feis, Professor George Ellery Hale, Dr. Alice Hamilton, Professor Manley O. Hudson, Dr. Royal Meeker, Professor Robert A. Millikan, Ex-Ambassador Henry Morgenthau, the Hon. Stephen G. Porter, Professor Edwin R. A. Seligman, Mr. Jeremiah Smith, Jr., Col. John H. Wigmore, Mrs. Hamilton Wright, and others. But besides, the American Government has also been frequently represented at international League Conferences, such as the Brussels Financial Conference in 1920, the Conference on Transit and Communications and on Customs Formalities in 1923, the Conference on Obscene Publications in 1923, the Opium Conference in 1924 and 1925, and the Conference on the Traffic in Arms in 1925.

It is true that in all these cases it was particularly emphasized that the position of American experts or representatives was merely "advisory," "consultative," "unofficial," or that of silent "observers." This may in certain, though by no means in all, cases have lessened the effectiveness of their intervention, but it did not materially alter their position or that of their government toward the work that was being carried on. To be sure the United States State Department, to say nothing of the American Senate,

was in no way bound by the agreements reached at these conferences. But no more were the Foreign Offices and Parliaments of the other participating Powers.

In every true sense and in every significant implication of the term the United States is a member of the League to promote international coöperation. Nor could it well be otherwise. The international community of civilized States is as much *per se* a League to promote international coöperation, as the body of citizens of a country is the electorate. The fact that certain citizens go to the polls and to party-gatherings and pay their taxes more regularly than others, undoubtedly deprives the latter of a part of their legitimate political influence and may be held to deprive them of the right to grumble if things go wrong. It does not deprive them of their citizenship.

As a matter of fact the League to promote international coöperation is the true *Société des Nations,* that Society of Nations which exists much less by virtue of any organization than by reason of the fact that, for good or for evil, this is a coöperative world in which isolation is impossible even for the most self-sufficient and the most powerful. As President Coolidge said in his memorable address delivered in Chicago on December 4, 1924:

> We can no more assure permanent and stable peace without coöperation among the nations, than we could assure victory in war without allies among them.

We come now to the last element of the triad of the League of Nations, the League to outlaw war. As I shall endeavor to show in the course of these lectures, this League has grown out of the original

conception of a League to enforce peace. During the war it was generally held, not only by President Wilson, but by most American and foreign statesmen and publicists, as well as by public opinion the world over, that the frightful slaughter should not end without giving birth to some organization for the effective prevention of future wars.

As soon as the immediate danger was past, however, this eminently sound and human conception was, if not lost, at least dimmed in the minds of many of its friends, in the general slump in political idealism which followed on the terrors of the war, the short-lived elation of victory, and the disillusionments of peace. It partly survived in the Covenant as drafted, but hardly as interpreted and applied in the course of the last years.

What in fact remains of the original idea of a League to enforce peace may properly and with due vagueness be termed a League to outlaw war. This, as we shall see, while it does not guarantee peace, has at least the advantage of not being open to the grave objections which prevented the British Empire from adhering to the Geneva Protocol as they had four years before prevented the United States from adhering to the Covenant. It is possible that those who before 1919 favored the immediate foundation of a League to enforce peace overestimated the general consciousness of international solidarity and correspondingly underestimated the persistent force of the dogma of unconditional and unqualified national sovereignty which it would have been necessary to overcome.

However that may be, one thing is certain: there is as yet in existence no League effectively to enforce

peace. The nearest approach to it is the League to outlaw war which, set up under the Covenant of the League of Nations, although not in strict conformity with the relevant articles 10 to 17 as drafted in 1919, includes fifty-five nations of the world and is of course open to the remaining few still outside.

When once it will have been generally understood how purely beneficial is its purpose and how few and how light the obligations of its members, it is difficult to believe that any civilized nation will wish to remain permanently aloof. Its purpose is merely to outlaw war, that is, to recommend, not even to impose, the substitution of pacific for violent methods of settlement of international disputes. The obligations of its members are to abstain from conquest and not to resort to war without having given reason and justice a chance of maintaining peace.

If this is so,—and I intend to devote my fourth and my fifth lectures to showing that it is not otherwise,—then is it possible to admit that any civilized State can wish to thwart this purpose and to shirk these obligations?

When the League to outlaw war will have become universal in its membership and generally respected in its aims and in the duties assumed by its members, war will be outlawed in the abstract, but not necessarily rendered forever impossible. It will doubtless persist as individual crime and collective revolutions persist even in well-ordered civil communities. But it will have become local and relatively inoffensive, because generally condemned by public opinion. Then, when the international machinery for the just and peaceful settlement of all international disputes will have been perfected, the time will be ripe for the

formation of a League to enforce peace and for the general disarmament of the world.

In the meanwhile the creation of the far less ambitious League to outlaw war, as it at present exists, may well be regarded as an advance toward that further goal. It is a modest but a hopeful advance and one that will be the more significant and the more promising as one after another of the States of the world whole-heartedly join in it. For that purpose it would doubtless be helpful if they all adhered to the Covenant, which as at present interpreted should have lost its terrors for all except for the most extreme isolationists. But it is both absolutely necessary and on the whole sufficient that they should without exception bring their own policies in accord with its fundamental principles by recognizing the compulsory jurisdiction of some international tribunal for the settlement of all international disputes.

At present fifty-five States have adhered to the Covenant, but only a score have accepted the compulsory jurisdiction of the Permanent Court of International Justice, and then only for juridical disputes. By adhering to the Covenant, these fifty-five States have signified their general approval of the ideals of the League to outlaw war. But if one had to choose between those of them who had done no more, and those other States which, while as yet foreign to the Covenant, have deliberately renounced the use of force for any but truly defensive purposes and are prepared to submit all their international disputes to the final judgment of an impartial arbiter, I would have no hesitation in declaring that the latter were the truer members of the League to outlaw war and the more promising candidates for

membership in the great League to enforce peace of the future.

The three Leagues which we have distinguished according to their purposes as being intended and organized to execute the peace treaties, to promote international coöperation, and to outlaw war, are three Leagues in one, the general League of Nations. As we have seen, they differ in structure as well as in function. But they are not rival nor antagonistic in their designs and, subordinating all to the ideals of justice and peace, they should be mutually helpful in their activities.

This is so to a certain extent. If peace is to be maintained, the existing treaties, as long as they are in force, must be executed, conflicts should if possible be averted by means of international coöperation, and war be outlawed by all. It must be noted, however, that by entrusting these three duties to the same League of Nations, its founders have unwittingly conjured up a new danger. This danger, being spiritual and consequently elusive in nature, is not yet clearly recognized, but is none the less real.

The outlawry of war and the establishment of permanent peace are possible only on the basis of absolute justice. Not only must the sentences of the authorities to whom disputes are referred for pacific settlement be just, but these authorities must be universally recognized as absolutely impartial and independent.

We have seen that the Council of the League of Nations, which has an important part to play in the League to outlaw war, is the same body as that which constitutes the League to execute the peace

treaties. Now no one who has closely and critically observed the action of this latter League and whose sense of justice has not been warped, can affirm that it has always been animated by a pure and undiluted sense of justice. Nor could it have been so animated with its present composition and in the present temper of most European governments. When instructing their delegates to the Council, these governments are not administering to them oaths of independent and impartial justice. They are performing acts of government in the national interest of their respective countries. The result is that, while certain members of the Council may be reputed for their clever statesmanship, their moderation, or their conciliatory spirit, the Council as a whole is far from enjoying that moral authority which attaches to a great court.

Again the League to promote international cooperation aims primarily at reaching working agreements and effecting compromises acceptable to all and especially to its most powerful members. It has unquestionably developed a spirit of friendly give and take, which is excellent and most conducive to results in the field of coöperation, but which is essentially different from the spirit of unswerving and even-handed justice. The danger here is less great. On the one hand, the spirit of international coöperation is less contrary to that of international justice than that frequently displayed in the execution by the victors of treaties imposed by them on their vanquished foes. And on the other hand, the Council, which is the motor of the League to execute the peace treaties and an important part of the machin-

ery to outlaw war, is but a minor tool in the League to promote international coöperation.

In both respects, however, the danger of spiritual contamination is real, especially as the same secretariat is the common servant of all three Leagues. The remedy is obviously in a more clearly defined administrative division of labor between the three Leagues and their organs and in a more universal moral recognition of the pacifying virtues of justice in international affairs in general.

As the memories of the last war fade away, especially if Germany and still more if the United States should join the League and the Council, it may be confidently expected that the spirit of the League to execute the peace treaties will become more impartial. Besides, as time goes on, its duties will become less important. As for the League to outlaw war, its progress will be measured by the gradual transference of its chief functions from the political Council to the judicial Court.

The hope of the world is that in international affairs the progress of civilization may follow the same paths as in the establishment of national States.

May law, justice, and order gradually triumph over violence, intrigue, and chaos! May the statesman, having enacted wise and fair laws, administer them wisely and fairly! May the bandit, cowed by fear of universal reprobation, permit the discharge of the soldier! May the policeman protect the weak and restrain the unruly! And may all demand, respect, and honor the impartiality and the independence of the judge!

CHAPTER II

THE LEAGUE TO EXECUTE THE PEACE TREATIES WITH SPECIAL REFERENCE TO MANDATES AND MINORITIES

The duties of the League to execute the peace treaties are manifold and have naturally been particularly engrossing during the first years after the war.

Sometimes it has been called upon to appoint commissions, commissioners, experts, and arbiters, as for instance in the case of the Saar, Danzig, mandates, Upper Silesia, the Aaland Islands, Albania, and Mossul.

Sometimes it has had to settle disputed questions arising out of the treaties. This it has done either in the execution of the treaties themselves, as in the case of the Eupen and Malmédy plebiscite and certain territorial questions concerning the frontiers of Hungary; or at the request of one of the parties concerned, as in the case of the Vilna affair, the matter of Eastern Carelia, and the complaint regarding the rights of the Hungarian Optants; or on the proposal of a third party, as in the Aaland Island dispute and the Upper Silesian problem.

Sometimes also the duties of the League to execute the peace treaties have been of a less temporary character. It has by treaty been made a trustee responsible during fifteen years for the government of the Saar basin. The Free City of Danzig has been placed under its protection. The territories under mandate are administered on behalf of the whole League under the special supervision of the

Council. The obligations undertaken by certain States with regard to their minorities are placed under its guarantee.

As it would be impossible to survey even hurriedly the whole field of action of the League to execute the peace treaties, I shall here consider only its duties concerning mandates and minorities. I have chosen these two topics both because they are of the most permanent and general nature and because they concern the welfare of the largest number of individuals.

The institution of mandates, as set up under article 22 of the Covenant, has from the first aroused a great deal of interest the world over. Nowhere has it been more carefully and more thoroughly studied than in the United States. I shall therefore here but recall its origin, its scope, and its particular features and show somewhat more fully how the scheme has actually worked and why it has been, as I believe it has been, remarkably successful.

When the Peace Conference met, one of its first concerns was the consideration of the question of what was to become of the German colonies and of the Arab provinces of Turkey. President Wilson's fourteen points, on the basis of which the Allies and their enemies had agreed to conclude peace, provided but a vague and rather negative reply to this question. Point 5 read as follows:

> A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must

have equal weight with the equitable claims of the government whose title is to be determined.

The Arab provinces of the Ottoman Empire were alluded to in point 12 in the following terms:

> The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development. . . .

In view of this agreed "peace program," it would obviously have been a flagrant violation of trust had the victors purely and simply annexed these territories, as the authors of some of the secret treaties concluded during the war had contemplated and as some of the British Dominions were, at the beginning of 1919, still intent upon doing.

As outright annexation and immediate emancipation were equally out of the question and as the return to the *status quo ante bellum* would have been bitterly opposed by all the interested Allied Powers, some form of international administration had to be devised. This was clearly the only solution both compatible with President Wilson's declarations and acceptable to his colleagues at the Conference.

This solution was suggested by General Smuts. In his famous pamphlet, published in December, 1918,[1] Smuts had proposed that the League of Nations be made the "residuary trustee" of the dismembered Empires and that various States should be entrusted with the duty of administering their disjointed remains, as mandatories on behalf of the

[1] *The League of Nations. A practical suggestion.* London, 1918.

League. President Wilson eagerly seized upon this idea and, applying it to the colonial sphere, for which it had not been intended, succeeded, after much effort and at the price of many concessions of principle, in embodying it in article 22 of the Covenant.

Under the provisions of this article, each of the former German colonies, as well as Syria, Palestine, and Irak, is now being administered on behalf of the League by one of seven different mandatory Powers. These Powers—Great Britain, France, Belgium, Japan, the Union of South Africa, the Commonwealth of Australia, and New Zealand—annually report to the League on their administration, which is to be carried on, in a spirit of entire disinterestedness and as a "sacred trust of civilization," subject to certain specific safeguards mentioned in the Covenant. These safeguards are intended primarily to protect the moral and material welfare of the native inhabitants as well as the economic interests of the other States members of the League. It may be recalled here that the United States in the course of the last years has concluded special treaties with several of the mandatory Powers to secure for its own nationals rights at least equal to those guaranteed under the Covenant to the nationals of the members of the League.

Such are, very hastily outlined, the origin, the nature, and the general structure of the mandate system. Surely none could offer the sceptic and the cynic a more attractive target for their sarcasms!

The original idea had been that the former German colonies were to be disposed of in accordance with the principle of absolute impartiality, and that

for the Arab provinces at least, to quote from article 22 "the wishes of these communities must be a principal consideration in the selection of the Mandatory." As a matter of fact, no native community was effectively consulted and no principle was applied in the distribution of the mandates save those of force of possession and geographic propinquity. The territories and their inhabitants were in the main left under the control of those who had conquered them. In several cases, as in Syria-Palestine, Togoland, the Cameroons, and former German East Africa, territories were divided between rival mandatories, for no reason related to the welfare of the inhabitants and often clearly in defiance of their wishes and at the expense of their interests.

Nor can the League quite escape all responsibility by declaring—which is true—that it had nothing to do with the drafting of article 22, nor with the territorial allocation of the mandates, which had been fixed, before the birth of the League, by the Supreme Council, representing the Powers to which the vanquished had ceded their possessions. There remains that the members of the League, by adhering to the Covenant, expressly endorsed its terms and that the Council, when promulgating the mandates as being in accordance with the principles of the Covenant, in no way questioned the action of the Supreme Council.

Again, several of the mandated areas were allowed to be administered "under the laws of the Mandatory as integral portions of its territory." This provision which, according to the Covenant, was to apply only to those former possessions of Germany where the benefit of equal economic oppor-

tunity was denied the non-mandatory Powers, the Council extended to all her former African colonies.

At first glance the only difference between the institution of mandates and annexation seems to be that, by means of the former, the new rulers were relieved of the necessity of deducting the value of their prizes from their reparation claims, as these prizes were declared to be honorary trusts and not material awards.

Much of such criticism, which has not been spared the novel scheme, is undoubtedly founded and the cant of article 22, in which its authors saw fit to express their lofty sentiments, does not make them appear any less hypocritical. And yet, in spite of all its failings and ambiguities, which I have not sought to disguise, I firmly believe that the institution of mandates, whatever may have been the hidden intentions of those who reluctantly accepted it in lieu of annexation and who set out to apply it, is one of real value and of great promise. If, as the experience of the first five years allows one to hope and to trust, the mandate system continues to be administered with increasing sincerity of purpose, its introduction may prove the beginning of a very significant and fortunate revolution in colonial administration.

How and why is this possible? By means of what miracle has the League been able to rear to beneficence this child which, though conceived in generosity, was undoubtedly born in sin!

The answer is to be found in the practical working of the system and particularly in the activities of the body mentioned in the final paragraph of article 22, which provides that

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

The secret of the success of the mandate system, as I see it, lies hidden in this brief clause. To quote this clause, however, is not to reveal the secret. How can a commission, it may be fairly asked, constituted to receive and examine reports drawn up by a Power on its own administration, have any guarantee of the accuracy, completeness, and sincerity of the information put before it? And further, how can a commission, constituted to advise the Council, exert any real influence on the administration of the mandatory Power, especially as the League, not being a super-State, can itself but recommend and not enjoin? If the only constitutional bond between the Council and the Mandatory is an annual report addressed by the latter to the former, and if the authority the former can exercise over the latter is limited to the transmission of the advice it receives from a consultative body, how can it be maintained that the mutual relationship is more than formal, that the sovereignty of the tutor over his ward is not absolute and uncontrolled, that the mandate, in a word, is not a sham and annexation not a reality?

A closer examination of the methods adopted to apply the principles of the Covenant will show that, thanks to the moral and political forces which it can enlist in favor of the League, on whose behalf the territories are administered, the influence of the Mandates Commission is as considerable as it is beneficent and that it possesses in its report a

weapon against negligence, abuse, and maladministration that is almost dangerously effective.

The first step in the practical establishment of the system was the constitution of the Mandates Commission. The Council wisely recognized that the Commission, in order to be in a position to give useful and authoritative advice, must be both competent and independent. It accordingly decided that its members, nine in number, were to be chosen for their personal merits only, that a majority of them were to be nationals of non-mandatory States, and that none of them were to hold any office of direct dependence on their governments. A tenth member, representing the International Labor Organization, was to coöperate with the Commission in a consultative capacity in all matters relating to labor. Recently an eleventh member was added in the person of a former director of the Mandates Section of the Secretariat.

The Commission, as appointed by the Council on this basis, is at present composed of a Dutchman, an Englishman, a Frenchman, and a Portuguese, all former high colonial officials; an Italian former Under-Secretary of the State of the Colonial Ministry; a Belgian former Secretary General of the department of Foreign Affairs who has carried on important colonial negotiations; a Swedish lady, a doctor of law particularly interested in questions of education, hygiene, and child welfare; a former Japanese diplomat of wide experience; a Spanish and a Swiss professor of economics and political science; and a labor expert of British nationality. An American, former Governor of the Philippines,

who had been invited to become a member of the Commission, unfortunately felt obliged to decline.

At its first meeting in 1921, the Mandates Commission, not yet having before it any statement on the administration of mandated territories, devoted itself to the drafting of a questionnaire intended to guide the mandatory Powers in the preparation of their future annual reports. Since 1921 the Commission has held six sessions of about a fortnight each, at which it has carefully examined the reports which have been regularly communicated to it. It has done so in the presence and with the willing and eager coöperation of accredited representatives of the mandatory Powers who, in accordance with the wishes of the Council, have appeared before it to reply to questions suggested by the study of the report and to supply any additional information that might be required by the Commission.

On the basis of this enquiry, the Commission has annually formulated its observations on the administration of each one of the mandated territories. Together with any comments the mandatory Powers have wished to add, these observations have been considered by the Council, transmitted to the interested States, discussed in the Assembly, and widely reported in the press of the world. These statements have received increasing attention at the hands of students, journalists, publicists, and parliamentarians, notably in the mandatory countries and in the mandated areas themselves.

It is impossible and it would hardly be relevant to our main purpose here to analyze the labors of the Commission in its technical aspects. But it is interesting to note certain significant developments

which have attended its activities and which may illustrate the nature and the importance of its influence.

The first fact which must strike the impartial reader of the reports and especially of the debates of the Commission and which will doubtless surprise the expert on international affairs, whose professional studies will naturally have inclined him to cynicism, is the lack of national bias displayed by its members. The credit for this principally belongs to the Belgian and British members of the Commission, who from the start seemed to take a rather more critical interest in the reports from the governments of their own countries than in the others. The immediate result of this attitude, combined with the great reputation for wide colonial experience of several of the members of the Commission and the care and diligence with which they have all performed their duties, has been to confer exceptional weight on their considered observations.

The second remark suggested by a study of their reports is the extremely moderate and diplomatic language in which their findings are couched. When any point has given rise to uneasiness on their part, they have as a rule been content to express their hope that they would be privileged to find in the next statement of the mandatory Power information calculated to allay their misgivings.

In spite of, or, more probably, on account of, this delicacy of touch, the mandatory Powers have responded with astounding alacrity to any query or veiled criticism of the Commission. This increasingly eager and friendly coöperation on their part is the third and possibly most important feature of the

working of the system. It has been shown both in the preparation and in the presentation of their reports. From year to year these reports have become fuller and franker. Moreover, the accredited representatives, who at the first sessions were sometimes subordinate officials of the colonial ministries of the mandatory Power, have, in conformity with the desire intimated by the Commission, more often come to be chosen from among the responsible administrators of the territories.

This coöperation of the "man on the spot" with the Commission has proved mutually helpful and very satisfactory. On the one hand the Commission has been more completely informed of the actual state of affairs in the mandated territories and of the efforts made to solve the real problems of administration. On the other hand—and this has proved still more gratifying—the colonial administrators have come to appreciate the opportunity of discussing their difficulties in the friendly and stimulating atmosphere of a Commission containing several experienced colleagues of various nationalities. Far from feeling that they were cross-examined as culprits or even as witnesses in a criminal trial, they were not long in discovering, possibly to the surprise of some of them, that they were considered as associates in a great novel enterprise of international coöperation for the amelioration of colonial conditions.

A fourth development which should be noted is the spirit of amicable emulation and mutual helpfulness which has been generated in the course of the working of the system. This is manifest in the interest taken by the various mandatory administrations in

each other's reports and experiences. It was shown also in a particularly interesting incident, when, at the suggestion of the Commission and within less than two years, Great Britain ceded unconditionally an important strip of Tanganyika territory to be added to the adjoining Belgian mandated area of Urundi Ruanda. What the Supreme Council had ruthlessly torn asunder for purely political reasons in 1919, was thus reunited, under the influence of the League, in the primary interests of the native population and in order to restore their threatened tribal unity.

All these auspicious developments were due not only to the fact that international suspicion, which is proverbially rife in colonial matters, was often allayed by frank and friendly contact in Geneva; they are also to be attributed to an important factor of international politics in the mandatory countries, which should not be overlooked.

It so happens that the latter all enjoy parliamentary institutions. Now all constitutional governments are as glad to be able to quote before their legislatures the praises they may have reaped from any outside authority, as they are anxious to avoid giving their oppositions any opportunity for attack based on foreign criticism. The greater the reputation of the foreign judge for competence, experience, and fairness, the more politically effective both his praises and his strictures.

It is thus that the Permanent Mandates Commission, which has come to be regarded in all the mandatory countries with genuine respect and confidence, enjoys a degree of authority and can wield an influence which the authors of article 22 could

hardly have foreseen and which no formal commentator of its provisions would suspect.

The administration of the institution of mandates, I look upon as the most successful achievement of the League to execute the peace treaties. Of course, it is as yet too early to pass final sentence on this experiment; I have sought to describe it with impartiality but, having been personally associated with it, I am perhaps tempted, by an unconscious bias, to view it in too favorable a light. History alone can decide and posterity will have a fair means of recognizing its decision.

Until now the mandate system has been applied only by one set of Powers to colonial possessions wrested from their former enemies. If it is to be definitively justified, it cannot be on the grounds on which it was introduced. It was, as we have seen, adopted at the Peace Conference as a measure of political compromise. If its essential principle, that of national administration under international supervision, is to prevail, it must be by reason of its intrinsic merits. Either it will prove to be a superior method of colonial government, both beneficial to the backward peoples under tutelage and conducive to the peace of the whole civilized world, on whose behalf the mandates are exercised. If so, it should sooner or later be extended to other colonial territories. Or, if it is not so extended, it is bound in the long run to be considered a failure and then it will be abolished even there where it is now in force.

This is a problem of the future which the future alone can solve. For the present, my sole contention is that, under the peculiarly difficult political and economic conditions under which the scheme was

initiated, it has well justified itself and therefore reflects real credit both on the statesmen who imagined it and on the League to execute the peace treaties, which is responsible for its operation.

The Covenant contains no mention of minorities. The protection of minorities, however, has become the most important task of that constituent part of the League of Nations which we have called the League to execute the peace treaties. It is my purpose briefly to examine why and how this duty was entrusted to the League and to show how and with what results the League has so far discharged its obligations in this field.

Before, it may be well to recall that minorities, in the peace treaties, are designated as those elements of the population who differ from the majority of their countrymen in race, creed, or tongue. Although I have been unable to find a more precise and more complete official definition, this one clearly does not tell the whole story. Jews in England, Catholics in the United States, or Italian-speaking Tessinois in Switzerland are minorities according to this definition. It would not, however, have occurred to the authors of the treaties that their case might have called for any special protective measures. The racial, religious, and linguistic minorities, whom the statesmen in Paris had in mind in 1919, were those placed or left under a sovereignty not of their own preference, who might reasonably fear to be molested by their rulers in their accustomed mode of life, speech, or worship.

At the beginning of the great war, Mr. Lloyd George once declared that it was "a war of nation-

alities.'' It is a fact that in its immediate cause—the Austro-Serbian conflict—as well as in its most important consequences—the remodelling of the map of Europe,—the war may be considered as essentially a revolt of nationalities against foreign rule.

In 1914 more than two-thirds of Europe in point of area and more than half in point of population was in the hand of four great Empires. Born of conquest, imbued with the spirit of domination and dynastic ambition, these four Empires were ruled by monarchs who traditionally claimed that their authority, irrespective of the wishes of their subjects, was based on the will of God. These four Empires, Germany, Austria-Hungary, Russia, and Turkey, their monarchs, and their theory of government, are the real vanquished of the war. They succumbed to the proclamation of the doctrine of self-determination, as expressed by President Wilson when, on February 11, 1918, replying to Counts von Hertling and Czernin, he declared:

> National aspirations must be respected; peoples may now be dominated and governed only by their own consent. ''Self-determination'' is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril.

The war was won on that issue, which appealed not only to the democratic ideals of the Western Allies, but still more to the repressed sense of nationality of the minorities under the domination of their enemies.

On November 11, 1918, the armistice was concluded on the basis of President Wilson's peace pro-

gram, of which he had said himself, after stating his fourteen points:

> An evident principle runs through the whole program I have outlined. It is the principle of justice to all peoples and nationalities, and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak. Unless this principle be made its foundation no part of the structure of international justice can stand.

The peace settlement in Europe was on the whole founded on this principle to which Poland owes its resurrection, Czecho-Slovakia, Finland, Lithuania, Latvia, and Esthonia their birth as fully independent States, and France, Italy, Yugoslavia, and Roumania important territorial aggrandizement. The principle was even applied in favor of a vanquished State, Austria, in the case of the Burgenland, and in favor of a neutral, Denmark, in the case of Slesvig.

In spite of the territorial decisions of the Peace Conference, and indeed because of certain of these decisions, the problem of securing for "all peoples and nationalities" "their right to live on equal terms of liberty and safety with one another" was, however, far from having been solved. Even theoretically it could not be completely solved by territorial adjustments on account of the numerous cases, chiefly in Eastern Europe, of populations geographically intermingled irrespective of their widely different origin and of their widely divergent aspirations. Moreover, in view of the inordinate ambitions of some of the victors, the principle itself to which they owed their victory and their territorial expansion, was often violated at the expense of the van-

quished, in the name of economic necessity or strategic advantage.

Thus Poland's frontiers were so far extended that, of a total population of some twenty-five millions, according to the census of 1920, a little over seventeen millions only were Poles, nearly five millions were Ruthenians, and over one million were Germans. Besides, over two millions were Jews spread all over the Polish territory. Czecho-Slovakia, as the unfortunate name alone of that remarkable country indicates, was endowed with an even less homogeneous citizenship of population. Of a total population of less than fourteen millions, there are not ten millions Czecho-Slovaks and of these no more than three-quarters are Czechs. Besides there are more than three million Germans, about a million Magyars, and half a million Ruthenians. Although all these figures are doubtful and contested, it has been said on impartial authority that no one linguistic group possessed a clear majority in Czecho-Slovakia and that that country was therefore in the unique position of being inhabited only by minorities, in the arithmetical and not of course in the political sense of the term.

There are also to-day hundreds of thousands of Germans in Italy, in the Balkan and in the Baltic States, in Danzig, in the Saar, not to mention the five millions of Austrians, a large majority of whom, if left free to apply the principle of self-determination, would doubtless prefer to see their country absorbed by Germany. There are several millions of Magyars in the surrounding States of the Little Entente and over five millions of Jews spread all

over Eastern Europe. In all it has been estimated that of the eighty million people who changed their nationality as a result of the peace treaties, over twenty millions are to be considered as minorities in the narrow sense of that term. I cannot vouch for the accuracy of these figures, as all available statistics seem to vary strangely according to the hopes and fears of the compiling authorities.

One outstanding fact is certain, however. Minorities are appreciably fewer in Europe to-day than in 1914. In some respects, however, the situation is not less alarming. A state of oppression is always revolting for the oppressed and disquieting for the oppressors. But it is more revolting and disquieting when those who feel oppressed to-day were the oppressors of yesterday and when they are conscious of their cultural and economic superiority over their former subjects and present masters. It is to this danger that Professor Gilbert Murray, speaking as a delegate for South Africa at the Assembly of the League, alluded when he said on September 12, 1921:

> As the result of the war, there have been placed in various parts of Europe, large, powerful, intelligent, and conspicuous minorities in the midst of populations in whom there are still moving, even if they are beneath the surface, the resentments and antagonisms of the war. These minorities are in a situation which is disagreeable and which if not attended to, may become dangerous. These minorities consist of people who, until lately, were accustomed to a position of superiority. They now find themselves in a position of something like subjection. They are bound to feel, they cannot but feel, a sense of grievance. The people round them have, until lately, been in a position of inferiority. They now find themselves suddenly in a position of

power. Human nature being what it is, it is only too probable that, in spite of all the care that may be exercised by the Governments, there will occur excesses and abuses of power.

The official explanation of the measures taken by the Peace Conference for the international protection of minorities is to be found in a letter addressed by its President, Mr. Clemenceau, to Mr. Paderewski, transmitting to him the Treaty of Peace between the Principal Allied and Associated Powers and Poland. According to this document the Powers conformed to "what has become an established tradition" by providing for the protection of the rights of minorities in order "to maintain the general principles of justice and liberty" and in the belief "that these populations will be more easily reconciled to their new position if they know that from the very beginning they have assured protection and adequate guarantees against any danger of unjust treatment or oppression."

This is the official statement. Like most official statements of an international character, it presents only that part of the truth which its authors deemed opportune. In its case their aim was not to explain their action to a war-weary world so much as to make it appear acceptable to a most reluctant Poland. The real truth of the matter was appreciably simpler, although perhaps less palatable.

As we have seen the victors had declared that "peoples may now be dominated and governed only by their own consent" and had consequently proclaimed the gospel of "self-determination." Thereupon they had been led, partly by irresistible external circumstances and partly by internal circum-

stances which they had not resisted, to violate the precepts of this gospel. They now offered as a palliative and in lieu of self-determination, a form of international protection by which they hoped that the victims of these violations would "be more easily reconciled to their new position."

Even this palliative, however, was not willingly accepted by the States in whose favor self-determination had been denied a minority of their subjects. On the other hand it was clearly impossible to protect the latter by international action without the coöperation of the former. It was therefore necessary to induce the sovereign States, whose minorities were to be assured of international protection, to accept the obligations of coöperation.

This was relatively easy in the case of the vanquished,—Austria, Bulgaria, Hungary, and Turkey, —whose duties in this respect were defined in the peace treaties they were forced to sign. It was somewhat more difficult in the case of Poland, Czecho-Slovakia, and the Baltic States, who owed their birth or their resurrection to the victory of the Allies. For the first two the inducement was the confirmation of the recognition of their independence, for the latter, as also for Albania, their admission to the League of Nations. Of course there was legally and technically no "*do ut des*" transaction in either case, but politically the result achieved as well as the methods applied for their achievement were much the same as if there had been. In the case of Greece, Yugoslavia, and Roumania,—minor victors whose territory had been extended as a result of the success of the Allied arms,—the acceptance of special international obligations in respect of their

minorities, was in some ways more difficult still. Here the political *"quid pro quo"* was the guaranteed extension of territory. Finally special minority duties were assumed by Germany and Poland under the Upper Silesian settlement and by Finland under the Aaland Islands award.

However various the reasons which induced these different States to undertake minority obligations, the substance of these obligations is in all cases very similar. They agree to assure to all inhabitants of their territory "without distinction of birth, nationality, language, race or religion," "full and complete protection of life and liberty" and "the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals." They further declare that all their nationals "shall be equal before the law and shall enjoy the same civil and political rights" and shall not, on any grounds of race, language, or religion, be denied "admission to public employments, functions, and honors or the exercise of professions and industries." They moreover undertake to impose no restriction on the free use by their minorities "of any language in private intercourse, in commerce, in religion, in the press, or in publications of any kind, or at public meetings." Further, notwithstanding the establishment of an official language, they agree to give adequate facilities for the use by minorities of their language before the courts. The institution of private minority schools is to be allowed. Moreover, in towns and districts in which a considerable proportion of the citizens are of a speech other than that

of the majority of the country, adequate facilities shall be granted for ensuring that in the primary public schools the instruction shall be given to the children in the medium of their native tongue.

Such are the most important material provisions to be found in the principal minority treaties and agreements. In their essence they are destined to protect the peculiar characteristics of those who, in the United States, would be called the "hyphenated citizens" and in a way to prevent their assimilation. That they should be resented by those patriots whose ideal is that of a country unified in speech, education, and national outlook is as easy to understand as that they should be open to misunderstanding in America. But it is equally obvious that the countries of Eastern Europe, inhabited and ruled in turn by peoples of various tongues and origin, cannot be unified except by intolerable oppression and without endangering international peace.

The United States on the other hand is in the happy position of a host who, before admitting guests to his new mansion built by his sole efforts, may naturally without injustice, insult, or even lack of hospitality fix the conditions under which they may enjoy his welcome. The only penalty for non-acceptance of these conditions, if I am rightly informed, is non-admission or at most the polite request that the uncongenial guest may be pleased to return to his native land.

Now the native land of most of the Germans, Magyars, Bulgars in Poland, Czecho-Slovakia, Yugoslavia, or Roumania is that part of these countries which, for generations and sometimes for centuries before the recent war, was Germany, German Aus-

tria, Hungary, or Bulgaria. To refuse to respect their characteristics would therefore be much more than to display a lack of courteous toleration. It would be wanton oppression, such as Prussia was guilty of before the war in her Polish provinces, oppression which in the eyes of impartial onlookers would justify revolution and might frequently provoke war.

That is one of the reasons why the provisions for the protection of minorities have been recognized as constituting "obligations of international concern" and have been "placed under the guarantee of the League of Nations."

The minority treaties contain express stipulations providing for this guarantee and establishing the general procedure intended to make it effective. According to these clauses the treaties themselves cannot be modified without the assent of a majority of the Council of the League. It is further provided that "any member of the Council . . . shall have the right to bring to the attention of the Council any infraction or danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective under the circumstances." Finally the States having undertaken international minority obligations agree "that any difference of opinion as to questions of law or fact" to which the execution of these obligations may give rise between them and any Power represented on the Council "shall be held to be a dispute of an international character under article 14 of the Covenant." They accordingly consent that "any such dispute shall, if the other party thereto demands, be referred to the

Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under article 13 of the Covenant."

Having seen how the minority problem arose and how it was dealt with by the authors of the peace settlement, I shall now briefly examine the action taken by the League to meet its responsibilities in this matter.

At one of its early sessions, in October, 1920, the Council, by adopting a report submitted by Mr. Tittoni, the Italian member, fully and expressly recognized its duty to see that the stipulations of the minority treaties were always carried out. For that purpose, it formally invited its members to draw the special attention of their respective Governments to this duty. It noted that, under the treaties, the Council alone was competent to deal with cases of infraction or danger of infraction of any of the international obligations assumed toward minorities and that it could do so only at the request of one of its members. This, however, did not preclude the presentation of information or petitions by other Governments or by representatives of the minorities themselves. In order to ensure the careful examination of any such communications, the Council resolved that "it was desirable that the President and two members appointed by him in each case should proceed to consider" them in order to decide whether they were to be formally placed on the agenda of the Council as a whole.

In the course of the following years the procedure thus outlined was perfected and in various ways adapted to the realities of the political situation. It

was decided to offer the interested States the opportunity of submitting, if they should wish, their observations on any communications placed before the committee of the Council. Moreover, the third Assembly, after a prolonged debate, made various recommendations calculated to render the action of the League in favor of minorities more continuous and less contentious. The following resolutions, which it adopted on September 21, 1922, are indicative of this tendency:

While in cases of grave infraction of the Minorities Treaties it is necessary that the Council should retain its full power of direct action, the Assembly recognizes that, in ordinary circumstances, the League can best promote good relations between the various signatory Governments and persons belonging to racial, religious or linguistic minorities placed under their sovereignty by benevolent and informal communications with those Governments. For this purpose, the Assembly suggests that the Council might require to have a larger secretarial staff at its disposal.

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While the Assembly recognizes the primary right of the Minorities to be protected by the League from oppression, it also emphasizes the duty incumbent upon persons belonging to racial, religious or linguistic minorities to coöperate as loyal fellow-citizens with the nations to which they now belong.

The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to Minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council.

The last of these resolutions was the expression of a general feeling, often voiced by the States which had expressly undertaken special obligations, that the principles which they were legally bound to apply should be considered as at least morally binding on all other States and notably on the Great Powers which were faced with the same problems.

If we analyze the machinery thus set up by the League in the course of the last years to secure the execution of the minority obligations, we find that it is made up of five distinct parts: the Secretariat, the Committee of Three, the Council, the Permanent Court of International Justice, and the Assembly.

The Minorities Section of the Secretariat is entrusted with the duty of collecting all relevant information concerning minorities and of maintaining constant, informal relations with the governments of the States responsible for their fair treatment. It receives the petitions presented on behalf of the minorities and, if not found irrelevant, anonymous, or unduly violent in tone transmits them to the members of the Council with such comments as the governments concerned may see fit to make.

The President of the Council, with two of his colleagues, constitute the Committee of Three to examine the petitions. If any of these documents seem to warrant official action by the Council, the Committee or any of its members, as well as any other member of the Council, may decide that they be submitted for consideration to the Council at its next plenary session.

The Council, when such petitions are brought be-

fore it, may or may not include a representative of the State concerned, according to the interpretation given to section 5 of article 4 of the Covenant, which reads as follows:

> Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a Member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

The Permanent Court of International Justice may be called upon to coöperate in the working of the scheme for the protection of minorities in two distinct ways. As we have seen, it may be asked, by any State represented on the Council, to hear and determine, as a dispute of an international character, any difference of opinion as to questions of law or fact arising out of the minority treaties themselves. It may also, at the request of the Council, give an advisory opinion on such a question.

The Assembly finally, in reviewing the work of the Council and of the Secretariat at its annual sessions, may express its satisfaction or regret as to what has been done or omitted in the past, as well as its hopes and apprehensions for the future.

This machinery has now been in working order for several years. The Secretariat has received scores of petitions. While their numbers are rather decreasing, they are more and more weighty and carefully prepared by their authors, so that they are more and more generally submitted to the Committee of Three. So far five petitions only have been considered by the Council as a whole.

The first two were protests addressed to the

League, by a German national association, in November, 1922, against the action the Polish Government was taking toward Polish citizens of German race. They both gave rise to advisory opinions by the Court, which in both cases were favorable to the views of the petitioners. In one case the Polish Government, while refusing to accept the opinion of the Court, offered to grant indemnities to the colonists whom it had illegally expelled. In the other, it agreed to such an understanding with the German government on the general question of nationality which had given rise to the protest. This understanding was subsequently reached after prolonged negotiations under the Chairmanship of a Belgian judge.

The third petition which was taken into consideration by the Council emanated, in 1922, from certain Jewish Associations, who protested against the arbitrary limitation of the number of Jewish students in Hungarian universities and other schools of higher education. The Hungarian Government supplied the Council with statistics, showing that the proportion of Jews matriculated in this institution was greater than that of the Jewish population in Hungary.

The two last cases, those of Polish minorities in Lithuania and of Hungarian colonists in Roumanian Transylvania were considered but not settled by the Council at its most recent session in June, 1925.

This is by no means a brilliant record of achievement. It is a fact universally admitted by competent and impartial observers that most minorities in Eastern Europe are being subjected to a treatment which is sometimes declared grossly oppressive and

sometimes pettily unfair, but which is certainly far from that generous and even-handed justice contemplated by the authors of the minority treaties. The obligations to ensure equality and "security in law and in fact" to all citizens of the signatory States, irrespective of their race, language, or religion, have been recognized as being of international concern and placed under the guarantee of the League of Nations. The Council has accepted the responsibility of seeing to the execution of these obligations. In the course of five years it has not considered more than half a dozen petitions and in no case has it succeeded in clearly and unqualifiedly enforcing the provisions of the treaties, which are being generally violated in their spirit if not in their letter.

Must we therefore conclude that the action of the League to execute the peace treaties has been a blank failure in this vital matter of the protection of minorities? If we were to base our answer solely on a comparison between what is and what ought to be, I am afraid we would be driven to reply in the affirmative. If, however, we compare what is, with what was before the war and what presumably would be today if there were no minority treaties and no League of Nations responsible for their enforcement, our answer will be very different.

The positive action of the Council has resulted in no fully satisfactory immediate remedial measures. But the constant pressure of international opinion, focussed on the policy of the minority Powers, thanks to the publicity of the proceedings before the Council, the Court, and above all of the Assembly, combined with the inconspicuous but persistent

friendly warnings, advice, and suggestions which the governments concerned are constantly receiving from Geneva, have undoubtedly exercised a moderating, as well as a constructively pacifying influence.

Year after year the representatives of these governments come before the Assembly to show how just, how liberal, how generous are their intentions, their institutions, and their policy with respect to their minorities. If so doing they rarely convince their audiences, they achieve a far more useful result: they oblige themselves, their governments, and even to some degree their parliaments, to endeavor to live up to the standards which in the face of the world they insistently declare to be theirs. The often noted fact that these representatives, on their return from Geneva, are more liberal than their governments at home, and these in turn more liberal than their parliaments and officials, less exposed to the pressure of international opinion, is a clear indication of the hopeful possibilities of the action of the League.

Suppress the League and you liberate instincts of domination, which are at present at least restrained. Fortify the League, on the other hand, and you bridle and repress these dangerous instincts which threaten not only the welfare of millions of Europeans, but thereby also the peace of the world.

The reasons for the failure of the League to enforce more effectively the provisions of the minority treaties are not far to seek. There is one technical and relatively unimportant reason which the Hungarian representative, Count Apponyi, very lucidly stated at the Fifth Assembly, on September 9, 1924, in the following terms:

I have the deepest respect for the Council as a body and also for all the individual members of the Council, but no institution can be expected to do work for which it is not adapted. The Council is first and foremost a political body consisting of statesmen delegated by their respective governments and having definite instructions. They are fully conscious of their international duties, but owing to the nature of things and to the position they hold they are mainly preoccupied with the political interests of the States they represent.

A case must thus be a flagrant one, the kind of case which is forced upon public attention by the actual facts, before a member of the Council will care to create a delicate situation between his own country and another in order to do justice to a minority to which he is bound by no particular ties. Such an attitude is quite natural.

In these matters a man has, as it were, a judicial function to perform. He is, first, an attorney-general representing the Crown or the Public as the case may be, and, secondly, he is a judge. It is only natural that members of the Council should be unwilling, or seldom willing, to assume the responsibility of opening up a question that is likely to prove embarrassing to a State with which they are anxious to maintain good relations.

With our present mode of procedure there is no prospect of fulfilling our aim, or rather our two-fold aim, namely, to do justice where justice is due, and to give minorities with a grievance the feeling that they will obtain justice. A man has obtained justice even though he loses his case; he does not obtain justice if his case is ignored.

On the following day, Mr. Paul Hymans, the Belgian representative, sought with righteous indignation to vindicate the Council by emphasizing "its faithful discharge of the duties which were entrusted to it by the treaties and which it has so much at heart."

Notwithstanding his eloquent protest, there is no doubt that Count Apponyi's point was well taken. The duty to enforce the minority treaties may place the members of the Council in a most difficult position. They are primarily representatives of their respective countries. In that capacity they are bound to seek to improve, and not to endanger, their friendly relations with foreign Powers. As international guarantors of the minority treaties on the other hand, their duty is to protect the racial, linguistic, and religious minorities of other States even at the risk of seeming meddlesome and of incurring the severe displeasure of the States in question.

This, however, is a more technical difficulty which has been at least partly overcome by the very ingenious institution of the Committee of Three. The real difficulty lies elsewhere and much deeper. It results from the recrudescence of narrow nationalism and from the slump in international solidarity, which have characterized the last years the world over. Some States have been driven thereby to adopt a policy of national isolation, others to bow down before the fascist ideal of national power and national glory, others to exalt the principle of absolute, unbridled, uncompromising national sovereignty in their foreign relations and that of intolerant racial, linguistic, and religious unity within their own frontiers. It is obvious that under such conditions a League of Nations, weakened by the very circumstances which would make its interventions more imperative, could not completely fulfill the hopes of its founders in carrying out their designs.

The idea underlying the minority treaties is clearly the child of another period. It was conceived

in the throes of the world struggle, amidst the destruction wrought by that spirit of domination which brought about the war, which the war condemned, but which the peace has unfortunately revived.

Let us hope that it be for a time only. Let us hope that those whom the war liberated will not prove too forgetful of the lessons of history. Let us hope that they will renounce a policy of oppression which can but lead to new struggles, in which the moral forces of the world would again be enlisted in the ranks of the oppressed and would most probably again determine the downfall of the oppressors.

Let us hope also that the League of Nations will find, in the whole world, the moral support and amongst its members the generosity, the courage, and the strength to secure the faithful and sincere execution of the treaties for the international protection of the minorities. These treaties are, with the League itself, the main hope of Europe and of the world. For, as Professor Gilbert Murray once declared at the Assembly: "We must spread general contentment with the new distribution of Europe, or the new distribution of Europe will not endure."

CHAPTER III

THE LEAGUE TO PROMOTE INTERNATIONAL COÖPERATION WITH SPECIAL REFERENCE TO THE RECONSTRUCTION OF AUSTRIA, THE SIMPLIFICATION OF CUSTOMS FORMALITIES, AND THE REGULATION OF THE DRUG TRAFFIC

International coöperation is no new thing. It has existed ever since two or more States have agreed to coördinate their policies for peace or for war. It has, for thousands of years, been expressed and implemented in treaties and understandings calculated to regulate reciprocal relations or to favor the pursuit in common of common purposes. In the course of the last half-century, it has become particularly active and has tended to assume novel forms. It has become more generally peaceful in its aims, multilateral in its participants, and less conventionally diplomatic and more technical and business-like in its methods.

Ever since the origin of history and up to about 1870, the characteristic expression of international coöperation has been the offensive and defensive alliance, concluded in secret between the chancelleries of two States and directed against a third party. In the latter part of the nineteenth century much more has been heard of international unions grouping most of the States of a given continent and even of the whole world. Periodical conferences of technical experts have in public elaborated conventions for improving the conditions of intercourse be-

tween peoples in countless special fields of human endeavor. This development has been the external manifestation of the growing consciousness of international solidarity. This solidarity itself is the product of more general education and of perfected methods of production, transportation, and transmission of intelligence.

As the world has grown smaller and the geographical division of labor among its component parts greater, the interdependence of its inhabitants has become more compelling and the possibilities of national isolation have narrowed. The network of international conventions and unions of all sorts, which spread over the globe on the eve of the war, was the natural and yet insufficient structural product of a humanity whose functional unity was becoming every day more real and more fully recognized.

It was to this cosmic fact that President Wilson was alluding when, on December 2, 1913, in his first annual message delivered before Congress, he noted "a growing . . . sense of community of interest among the nations, foreshadowing an age of settled peace and good-will." On this, as on other points, his immediate hopes were to be tragically disappointed, but in the main, his vision was true. The realization of his forecast can be postponed, but not definitively thwarted, if civilization is to survive.

The foundation of the League to promote international coöperation is but the most recent incident in the long history of human evolution I have just recalled. In its aims this League is identical with the numerous international conferences and congresses which have preceded it in the course of the last generations. In its procedure and achievements, how-

ever, it has already shown itself singularly more effective.

This is due to the essential fact that, whereas before its creation coöperation between States was national in its initiative, sporadic, intermittent, improvised in its methods, and therefore too often ephemeral in its results, it has now been internationally organized. Conferences are held under strictly international auspices. Their work is carefully prepared, facilitated, and guided by experts whose loyalty is to the international community as a whole and whose training, both international and technical, has specially fitted them for their task in its double aspect. Moreover, the results of the conferences are periodically subjected to review by public opinion, whose attention is focussed on them by the debates in the Council and in the Assembly. The agreements once reached are readily supplemented and their execution is supervised by international vigilance and continuously perfected by international emulation.

In the great game of international coöperation, the new League enjoys all the advantages of increased efficiency and economy of effort, due to steady training and good teamwork developed under experienced professional advice.

The Covenant, as we have seen in my opening lecture, says little of the functions of the League to promote international coöperation and nothing whatever of its structure. Its activities—economic, social, political, hygienic, intellectual, moral—are so extraordinarily varied that it is not easy even to classify them. It would seem, however, that they might all be grouped under three main headings.

They tend either to the carrying out in common of some definite scheme for a common purpose, or to the removal of friction in international relations, or to the improvement of national conditions through international means. The repatriation of prisoners of war, the fight against epidemics, the reconstruction of Austria and Hungary, was coöperation in the first sense. The transit conventions, those relating to the simplification of customs formalities or the passport agreement, were results of coöperation in the second sense. The international regulation of labor conditions, of the opium traffic, of the traffic in women and children, or the consideration of the problem of fiscal evasion are instances of coöperation in the third sense.

In a way the expression, "the League to promote international coöperation," is, if not a complete misnomer, at least a somewhat misleading abbreviation. International coöperation, although useful in itself, is but a means to an end or rather to the three ends I have just sought to define. What we call the League to promote international coöperation is in fact the League to attain these various ends by means of international coöperation.

It would take a large private library to hold a complete set of all the official documents relating to the various phases of the activity of this League. And it would take much more than a series of six lectures to study in full detail any one of the more important of these phases. My purpose, in devoting one lecture to the League to promote international coöperation, can therefore be neither to appear encyclopedic and to attempt to cover the whole field, nor even to presume to study thoroughly a limited

part of it. I wish merely to show, in one of each of the three spheres of its action, how its machinery works. This will suffice, I believe, to illustrate its real originality and its great usefulness in the present distracted state of Europe and of the world.

As an example of the action of the League to promote international coöperation in the accomplishment, by combined effort, of a given piece of constructive work, I shall choose what I consider to be its masterpiece, the financial reconstruction of Austria.

The story of the slow death of that State, before the intervention of the League, and of its sudden resurrection thereafter, has been so often and so ably told, that I need but summarize it here.

Before 1914 the present Austria, with its six millions of inhabitants, formed the German-speaking nucleus of the great Austro-Hungarian monarchy, with a population of more than six times that number. Ruined by the war and stripped, by the treaties of peace, of her former territories on the north, east, and south, deprived of her main grain-producing and manufacturing provinces, cut off from the sea, Austria was left moribund in 1919. For three years she lingered on the verge of the grave, living, more and more miserably, on the charitable and speculative instincts of America and Europe. By the middle of 1922 the end seemed at hand. After nearly half a billion dollars had been spent and lost by the rest of the world, in feeding her demoralized population and by gambling in her demoralized currency, total economic collapse and foreign political intervention seemed inevitable. On August 15, her case was referred to the League by the Supreme Council,

which at the same time answered her last desperate appeal for assistance by informing her that nothing further could be done by the Allied treasuries and that there was therefore no hope left unless money could be attracted from private sources.

Two months later the Austrian crown, which had been depreciating more and more rapidly and which, in August, was worth only $\frac{1}{15000}$ part of its gold value, was suddenly stabilized, even before inflation was stopped on November 18. By the middle of January, 1923, the Austrian Government had succeeded in raising abroad a private loan of fifty millions gold crowns on very moderate terms. The country was out of danger and was clearly convalescing.

What had happened in the interval?

When the note from the Supreme Council arrived in Geneva in the middle of August, 1922, both the Council and the Assembly of the League were to meet very shortly. The Council, all of whose members arrived with instructions from their governments directing them to hold out no hope of further State credits, at once called upon the Financial Committee of the League to consider the Austrian problem in its financial aspects.

The fact that this consultative body was already in existence and immedately available was of inestimable value in the emergency. Not only could the Council rely on it for the most expert, technical advice; but, as it counted among its members several of the most influential European bankers, it was possible through them to be and to remain in constant touch with the various national money markets to which appeal would clearly have to be made.

Serious as were the financial and economic sides of the situation, it had its political aspects also, which were perhaps graver still. The Austrian Government was not confident of being able to maintain internal order. Besides, it was quite prepared to accept and, if the worst came to the worst, even to welcome the military intervention of any of its neighbors. Now, while none of these neighbors had any territorial designs on Austria, none of them could or would tolerate the establishment in Austria of the preponderant influence of any other. The political vacuum, which the Austrian collapse threatened to create, was in itself extremely dangerous. The rush of conflicting currents which it would have determined from all sides, and notably from the south and from the east, might well have developed into a tornado. And a tornado, springing up in one of the most exposed parts of Europe, might well have swept away much more than the independence of Austria alone.

For this reason, as well as on account of the economic interests involved, Czecho-Slovakia was invited to sit on the Council with Austria, while the latter's situation was being discussed. The Council appointed from among its own members a Committee of Five, including therein the representatives of these two States and those of the three great European Powers. This Committee, while enjoying the technical assistance of the Financial and of the Economic Committees, of the legal experts, and of the trained personnel of the Secretariat, dealt with the specifically political aspects of the situation and maintained the control over the work of its advisers

by considering interim reports as they proceeded with their studies.

At the same time, by a happy coincidence, the Assembly was holding its annual session in Geneva. Although it did not coöperate in the solution of the problem in any technical sense, its influence made itself most usefully felt in many indirect ways. By its public debates it called the attention of the world to what was going on in Geneva. It stimulated the Council and its advisers by daily showing the anxious suspense with which the whole of Europe was following their labors. It also encouraged, and materially helped to restore the self-confidence of the government and people of Austria, whose *morale* was sadly affected but without whose energetic cooperation no plan of salvation could be expected to succeed.

Thus all the parts of the political, administrative, and technical machinery of the League to promote international coöperation were smoothly and harmoniously working together, making for order and reconstruction, in the midst of what at first seemed hopeless chaos and ruin.

The scheme evolved by the Council on the advice of its experts is well known. Its main principles were embodied in three protocols signed by the interested Powers. The first proclaimed the general will "to respect the political independence, the territorial integrity, and the sovereignty of Austria." The second set forth the conditions under which a State-guaranteed loan was to be floated. The third defined the obligations of Austria.

The Austrian republic was to undertake a complete reform of her administrative and fiscal system,

by which she was within two years to become financially self-supporting. In the meanwhile she was to receive the necessary advances from without in the form of a loan of over 600 millions of gold crowns, to be floated on the principal markets of Europe and in New York. The investor was to be attracted both by the special assets offered as real security by Austria and by the official guarantee of the most interested Powers, who together, each for a given fraction, although not collectively, were to protect him against all possibility of loss.

The guaranteeing Powers were to constitute a Committee of Control to watch their special interests. The League as a whole, on the other hand, was to be represented by a Commissioner General, who, residing in Vienna, was to advise the Austrian Government and, if need be, restrain or urge it on in its policy of retrenchment, reconstruction, and repayment.

Such are the main outlines of this novel and comprehensive scheme for the political and economic rehabilitation of a State by effective external assistance and control, but without undue humiliation to its national pride or oppressive encroachment on its national sovereignty. It is difficult to imagine how a plan of this kind could have been evolved and applied with such promptitude and success, in such an extreme emergency, in the absence of a permanently organized League to promote international coöperation. For in the League was to be found, ready for use, the necessary political and technical machinery, and this was an incalculable advantage in enabling an efficient system of administrative and financial assistance and control to be set up without delay.

And this was not all. The coöperative spirit, which the League had already developed and which might be called a rudimentary European patriotism, alone made possible the working of this scheme without too much hardship and humiliation for Austria and without too much mutual jealousy and suspicion on the part of the guaranteeing neighbors.

It was certainly with no undue self-praise and with no exaggeration, that the Fourth Assembly, in a resolution adopted on September 12, 1923, noted "with great satisfaction the success of the most notable effort of economic reconstruction since the war" and took occasion "to emphasize that it was only by means of a scheme based on international coöperation through the League that this result could be obtained, a scheme comprehensive in its scope, worked out in full technical detail by the League's experts and enforced by control exercised through a high officer of the League."

Since its inception the scheme for the reconstruction of Austria has been remarkably successful. The crisis of unemployment and economic distress which Austria has been undergoing of late is one of those unfortunate but apparently inevitable reactions which no State is spared on recovering from a prolonged and acute attack of inflation. It is not surprising that it should be particularly severe in the case of a small country, with a disproportionately large capital city, surrounded by neighbors who have hedged in their territory, which was formerly hers, by high protectionist tariff barriers. While the people are suffering, the public finances of the State are almost flourishing and its bonds are quoted appreciably above their price of issue.

The interest aroused by the League experiment in Austria is due not only to its signal success there, but also to its repercussion in Hungary and, as is still too little known and appreciated, in Germany. It is more than doubtful whether the so-called Dawes plan would be what it is, but for the Austrian precedent and for the League which created it. But on this point, it is not for one from Geneva to enlighten an American audience.

Besides the organization of common action among its members, the League to promote international coöperation has, we have noted, as its second task, the improvement of international relations. In order to illustrate its methods in this phase of its activity, I propose to examine the manner in which it has handled the problem of the simplification of customs formalities.

To allude to customs formalities before a widely travelled American audience such as this, is doubtless merely to recall many personal incidents experienced at railroad stations and steamship wharfs, at all hours of the day and night, some painfully trying, some ludicrously grotesque, but all distinctly unpleasant. Important as it is for the tourist, particularly in Europe, the question of customs formalities, however, looms up much larger still to the international trader and even in some cases, to the statesman.

Everyone who thoughtfully studies the general topic of international relations is bound, sooner or later, to be led to consider the obstructions placed by the State in the channels of international trade as one of the most dangerous causes of conflict. By

deliberately and wilfully impeding the flow of commerce and diverting it from its natural course, the State not only tends to counteract the progress realized in the means of transportation and thereby to deprive humanity of the benefits of cheapening international division of labor; it also increases international animosities and occasions political tension which not infrequently results in war.

It is therefore not surprising that in his "program of the world's peace," President Wilson should have put down, as one of its essential items, "the removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance."

It was soon realized at Paris in 1919 that, however theoretically desirable the principle thus enunciated might be for the peace of the world, it was not practical politics to discuss it then and there. What remained, after it had been discarded, was the demand that discriminatory commercial legislation at least was to be condemned and as far as possible avoided. This claim found its way into the Covenant, where it is very guardedly formulated as follows in article 23 (e), which is generally held to be American in origin:

> Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . will make provision to secure and maintain . . . equitable treatment for the commerce of all Members of the League. In this connection the special necessities of the regions devastated during the war of 1914-1918 shall be born in mind.

By adhering to the Covenant, all the States members of the League had therefore bound themselves "to make provision to secure and maintain" "equitable treatment for the commerce" of all their fellow-members. However, between this undertaking and its fulfilment there lay a vast expanse of unexplored and perhaps dangerous possibilities.

At no period in history has there ever been any unanimity among the publicists of the world as to what constitutes equity in international commercial relations. After a war in which all kinds of discriminatory practices, such as special restrictions and prohibitions of imports and exports, arbitrary rationing, origin certificates, blacklisting, etc., had been introduced in most States and even, in many cases, imposed by one set of States on another, equitable treatment of commerce had become a principle far easier to state in general terms than to define and still more to apply. In the interests of general reconstruction, its application, however, was as urgent as it was difficult.

That the commercial policy generally prevailing in Europe in 1920, among former enemies, neutrals and allies alike, was anything but equitable, everyone recognized and deplored. But who could say how it was to be remedied in a world of wildly fluctuating exchanges, whose whole economic fabric had been shaken and almost shattered, and whose peoples reshuffled among States, old and new, were often more bitterly antagonistic after the peace than they had been before and even during the war?

It was under these distracting circumstances that the Council of the League, by a resolution of September 19, 1921, confirmed a week later by the As-

sembly, turned to its consultative body of economic experts and directed them "to consider and report upon the meaning and the scope of the provision relating to equitable treatment of commerce contained in Article 23 (e) of the Covenant."

The Economic Committee thereupon set up a small Sub-Committee for the Equitable Treatment of Commerce under the chairmanship of Sir Hubert Llewellyn Smith, Economic Adviser to the British Government. After several meetings of this Sub-Committee as well as of the Committee as a whole in the course of 1922, and after indirect communication and coöperation with the Genoa Conference on the subject, a report was submitted to the Council at the beginning of September. In this report the Committee summed up as follows the general and as yet provisional results of its labors:

> . . . The Committee have interpreted the mandate confided to them as having an essentially practical rather than a theoretical object. The Committee have considered that their task is not to engage in the barren academic labor of attempting to frame a definition of "equitable treatment," but rather to advise the Council and the Assembly as to the more important practical duties imposed on Members of the League by the above provision of the Covenant, and as to the measures which could appropriately be taken at the present time through the machinery of the League of Nations to provide for the better fulfilment of all or any of those duties by the Member States. Regarding the problem presented to them as essentially a practical one, the Committee came to the conclusion that the best method of achieving a useful result was to begin by enumerating various classes of practices which, in their judgment, clearly violated the principle of the equitable treatment laid down in the Covenant.

Their next step was to examine carefully each of these classes of practices in turn with a view to determining how far there is a reasonable prospect at the present time of obtaining general assent to the enactment of measures whether taken individually by the States or by some form of collective action which would put an end to the abuses in question.

Without professing that the following enumeration is in any way exhaustive, the Committee believes that a large proportion of the inequitable practices against which the provision in the Covenant was aimed are included under one or the other of the following headings:

1. The encouragement or toleration of unfair competition by means of fraudulent trade practices (such as false marks and descriptions) to the injury of legitimate commerce.

2. The maintenance of excessive, useless, arbitrary or unjust formalities and procedure in respect of customs and other similar matters, whereby the commerce of other Members of the League is prejudiced.

3. The application by any Member of the League of unjust or oppressive treatment in fiscal or other matters to the nationals, firms or companies of other Members of the League exercising their commerce, industry or other occupation in its territories.

4. Unjust discrimination directed against the commerce of any Member of the League in such matters as the treatment accorded to goods or ships.

Besides this enumeration of abuses to be combated by international coöperation, the Economic Committee proposed, in each instance, some immediate practical action. In the case, which alone concerns us here, of "the maintenance of excessive, useless, arbitrary or unjust formalities and procedure in respect of customs," it declared the "time ripe for . . . a systematic effort, through the machinery of the

League of Nations, to arrive at a general understanding with a view to action by the various States, both individually and in coöperation, to simplify and render more uniform and equitable their formalities and procedure, and to make better provision for prompt and widespread publicity as regards changes in their tariffs and regulations."

In order to promote this general understanding, the Committee proposed that the Council should summon an "International Customs Conference of Experts." This Conference, it was hoped would attain common results susceptible of being embodied "in such forms of international instruments, including, for example, draft conventions, declarations, and recommendations, as the Conference itself may think best suited to achieve the various purposes desired."

The Committee added that these instruments "will only be binding on those Member States which voluntarily accept them." This last remark is so obvious that I should not have thought of recalling it here, did it not point to an essential and often misunderstood characteristic of the League of Nations and particularly of the League to promote international coöperation. Not being a super-State, this League cannot coerce any of its members. It can only organize coöperation among those of them who are willing to coöperate. This may and does irritate the impatient, who point with scorn to the slowness with which it attains its fragmentary and often insignificant results. But it should at least reassure the suspicious, who, jealous of their own national sovereignty, fear the entanglements and encroachments of the League.

Not content with making the proposal for an international gathering, the Economic Committee submitted to the Council a series of ten propositions adopted "to serve as basis for the Programme of a Customs Conference." In order finally to avoid the danger of overloading the agenda of the proposed conference and especially of disquieting those States —and there are such on both sides of the Atlantic— which hold that customs tariffs are matters of purely domestic concern, the Committee declared it to be essential that its scope "be carefully defined and limited and that it be made clear at the outset that its programme . . . will not extend to such matters as the policy of the Members of the League in respect of tariffs or commercial agreements."

Having taken cognizance of these comprehensive proposals, the Council approved them and, quite in accordance with their spirit, limited the object of the Conference to a single point, namely: "Customs and similar formalities excluding all other questions relating to the policy of States in regard to Customs and commercial agreements." The Third Assembly likewise approved these proposals by unanimously adopting, on September 28, 1922, the following resolution:

> The Assembly notes with satisfaction the thorough enquiry which the Economic Committee has made into the questions concerning the equitable treatment of commerce and the progress achieved in regard to certain aspects of the problem.
>
> It approves the proposal to convene a Conference of experts on customs formalities. It trusts that all possible measures will be taken, not only to promote the success of the Conference, but also to follow up its conclusions in such

a way as to secure practical action by the Governments with the least possible delay.

In accordance with the wishes of the Council and of the Assembly, the Economic Committee thereupon still further defined the program of the Conference, by submitting a number of precise proposals intended clearly to outline its future labors. At the same time the Committee expressed the wish that the various governments be given an opportunity of taking part in the preliminary work of the Conference which, for technical reasons, it hoped would be attended by the largest possible number of States, whether members or not of the League.

On January 30, 1923, the Council decided to send out the invitations for the Conference to meet in Geneva on October 15 of the same year. These invitations were to be addressed not only to all the members of the League, but also to the United States, Germany, Mexico, Ecuador, Egypt, and the French Protectorate of Morocco and Tunis. The International Chamber of Commerce, the most representative international organization of the business world, which happened to be engaged in the study of the same problem, was also invited to attend the Conference in a consultative capacity.

To the invitations were annexed the program and the propositions, as elaborated by the Economic Committee, and the request for written observations on these documents. In order still further to prepare the work of the Conference and to render effective agreement at least probable, the Economic Committee was, at its request, authorized to consult any experts with special knowledge of Customs matters whose advice it might consider useful. Sixteen Cus-

toms officials, from as many countries, were accordingly summoned and met in Geneva, both alone and together with the Economic Committee, in March and May, 1923.

On the basis of the replies received from the invited governments and from the International Chamber of Commerce, the Committee, enlightened also by the technical advice of the Customs experts, proceeded to put all its proposals and annexed recommendations in final form and communicated them to all the States which were invited to attend the Conference. Shortly before its meeting, on September 24, 1923, the Fourth Assembly bestowed its blessings on the future labors of the Conference by adopting the following resolution:

> . . . The Assembly, emphasizing the importance, for the establishment of normal trade relations, of the Conference on Customs Formalities which will open in Geneva on October 15th, and recognizing that the achievement of the object of this Conference would be a further step towards a more equitable treatment as regards the commerce of the States, expresses the hope that the attendance of the States will be the largest possible and that the Conference may result in common agreement between the participating States.

The Conference met in Geneva on October 15, 1923, and sat until November 3 under the chairmanship of Lord Buxton, ex-Governor-General of South Africa, who, not a representative of any State, had been nominated by the Council of the League. As in this brief analysis we are perhaps less interested in the results of the labors of the Conference than in the methods applied to achieve them, I shall first examine its composition and organization.

We have just seen that its president had been ap-

pointed by the Council and not elected by the Conference. This method of selection is often employed in technical League conferences in order to secure perfect impartiality and especially in order to avoid the embarrassment inherent in international elections. When elections are resorted to, the only possible candidates are naturally first delegates, that is, men whose services as debaters neither the assembly as a whole nor their own delegations can well spare.

The secretarial work of the Conference was entrusted to the members of the Economic Section of the Secretariat of the League who had followed from their inception the labors of the Economic Committee relating to customs formalities. The Committee itself was represented at the Conference in a consultative capacity by three of its members who did not form part of any national delegation.

The Conference included thirty-five delegations, an official group of five silent observers representing the American State Department, and the President of the International Chamber of Commerce with several colleagues of various nationalities. Of the thirty-five delegations, thirty-one represented Members of the League and four non-Members; twenty-seven represented fully sovereign States, five British Dominions including India, one Egypt, and two French Dependencies. The presence of the latter, Morocco and Tunis, formally justified because of their separate customs régime, was a novelty, perhaps prompted by the desire of the French to match the British Dominions.

The most enlightening classification of the delegations is that according to continents. Of the thirty-

five, twenty-two represented European States, four American, North and South, five Asiatic, and four African. These figures are even more striking, if we consider that of the thirteen non-European delegations, four represented British Dominions, including India, one Egypt, and two French Dependencies. If we deduct these we find that there were only six fully independent non-European States represented out of a total of thirty-five delegations.

These statistics point to a fact which would have been obvious even without this demonstration, namely, that the problem of customs formalities is essentially a European problem. It is, in other words, a question which primarily interests those States who export extensively manufactured commodities to European markets, that is, European States and the United States. It is very significant in this respect that the only non-European delegation composed of high government officials and technical experts was the American delegation. It was all the more deplored in Geneva that their instructions should have condemned them to absolute silence throughout the whole proceedings, as their active coöperation would doubtless have been extremely useful to the conference. It is not for a foreigner to judge whether it might have been of some use also to the American exporting community.

It would lead too far to analyze further the procedure of the Conference and of the three Committees it set up, in each of which all the States could be represented. Suffice it to mention the constant interplay in the debates of the national bias of the political delegates, of the technical demands of their advisers representing the customs administration, of

the protests of the business world represented by the International Chamber of Commerce, and of the international, progressive, conciliatory action of the members of the Economic Committee, assisted by the Secretariat.

At the end of a three weeks' session, the Conference adopted a Convention, containing thirty articles and several annexes, a Protocol, embodying interpretations and reservations, and a Final Act. Out of thirty-four States represented at the last meeting, thirty-two voted for these three instruments, the other two abstaining for lack of instructions. On the closing day, twenty-one States signed the Convention, which was to come into force three months after ratification by five signatory States. This was achieved by the end of 1924. On June 3, 1925, the Convention had been signed by thirty-seven States and ratified by twelve.

This long and highly technical document embodies all the proposals of the Economic Committee and contains several additional provisions.

The essential difference between tariff policy, which was deliberately left outside the sphere of the Conference, and customs formalities, the simplification of which it had been summoned to promote, was lucidly stated at its second meeting by M. Janssen, Director-General of Belgian Customs, in the following terms:

> . . . When a country established high import duties and thus hindered access to its markets, the partisans of commercial freedom might regret the fact; but it was essentially a sovereign act which was above direct criticism. As soon as the tariffs were made clear however, importers could calculate all the consequences, could contract bargains with

a full knowledge of the facts and could protect themselves against surprises. The Customs barrier, even when high, was a visible obstacle, the height and extent of which everyone could measure for himself; but if behind this barrier lay further quicksands and marshes, then life ceased to be tolerable and the importer was lost in the general confusion. . . . Formalities should be reduced to a minimum, so that there should not be added to the duties an unforeseen surtax which would throw out all calculations, against which the parties concerned could not protect themselves and which would involve a ruinous aggravation to expenses.

It would be rash to assert that, even if the Convention had to-day been signed and ratified by all the States of the world, which is as yet far from being the case, all excessive, useless, arbitrary, and unjust customs formalities would have disappeared from the surface of the globe. But the Convention is certainly a step in the right direction, leading toward freer and fairer international trade and therefore away from chaos and toward positive reconstruction. Without attempting to summarize its provisions, I will but quote the following passage from Lord Buxton's closing address, in which he characterized its general spirit and tendency:

. . . Speaking generally, what you have aimed at in regard to Customs Formalities is Publicity, Simplicity, Expedition, Equality and Redress.

Publicity That is, where not already done, that Customs regulations should be published in a simple and accessible form, and, further, that any changes that are made in tariffs or in formalities shall be published at the earliest possible moment, so that traders and others shall immediately be in a position to ascertain any changes that are made, or additional charges that are imposed.

Simplicity That is simplicity in customs rules and proce-

dures, so that hindrances connected with prohibitions, restrictions, and formalities should be reduced to a minimum.

Expedition That is that such Customs rules and procedures as have to be imposed should cause as little delay as possible to the rapid passage of goods—and of passengers—from one country to another.

Equality That is that, apart from tariff policy, the formalities themselves shall not be utilized for the purpose of imposing any arbitrary or discriminating burdens and restrictions.

Redress That is that the contracting States undertake to take appropriate measures to ensure redress by means of administrative, judicial, or arbitral procedure in case of alleged abuse.

I am afraid no one could possibly have been entertained by the very dry and technical description I have been led to present of the methods applied by the League in its attempt to deal with a very dry and technical matter. My purpose was to show by one concrete example how the coöperation of all the institutions of the League materially facilitated and hastened international progress. Without the provisions in article 23 (e) of the Covenant, without the disinterested, independent, and competent preliminary labors of the Economic Committee and of their expert assistants in the permanent Secretariat of the League, without the support of the great Powers regularly coming together in the Council and conceiving a sort of author's pride in their common work, without the publicity and the driving power supplied by the Assembly, without the teamwork between these various organs, I do not claim that customs formalities would never come to be simplified. I do contend, however, that the organization of the League, which I have sought to describe, in its

structure as in its functions, has hastened and will continue to hasten this necessary process. To question it would be to question the efficacy in political affairs of such decisive factors as the spirit of international coöperation and emulation, the authority of expert advice, and the driving power of full publicity.

The third and last task of the League to promote international coöperation is to improve national conditions and to protect national welfare by means of international action. As an instance of this I have decided to choose its treatment of the drug problem.

When I mentioned my intention of doing so to an American friend in Geneva, he strongly advised me against what he considered a most rash and unwise project. "In the first place," he said, "you will find your audience much better informed about the intricacies of the international drug traffic than you probably are yourself. Besides, the results of the League's action in this matter are not at present sufficiently encouraging to justify the choice of such a topic."

In spite of the great respect I entertain for my friend's judgment, he left me unconvinced for four reasons, of which I shall state three at once. First, I felt that, if I was to discard all the subjects about which I was in danger of finding Williamstown wiser than myself, I might just as well have remained in Geneva. Secondly, my intention was not to study the drug traffic itself, about which voluminous new books are being published every month, but merely the technique of the League in handling it. Thirdly, as I explained in my introduction, my choice of topics was not dictated by my desire to engage in propa-

ganda, but by the wish to present as frank and as impartial a view of the League's activities as was in my power. Now, whatever the success or the failure of the League in its attempts to regulate the international drug traffic, they do very clearly exemplify its methods. Moreover, they illustrate with peculiar force a general truth which I regard as of the utmost importance for the comprehension of the possibilities of international action in the present state of the world, by showing that the results the League can attain are necessarily limited by the sovereign will of its members. A super-State could enforce its policy upon a recalcitrant minority of its constituent parts. The present League of Nations most certainly cannot.

As all those who have made even a cursory study of it well know, the drug problem is exceptionally intricate. To examine it in all its aspects,—chemical, physiological, medical, economic, financial, legal, political,—would far exceed, not only the limits of this lecture, or of this course of lectures, but also and still more the competence of the speaker. For my present purpose, however, it is both sufficient and necessary, first, to define briefly the drug evil in its various aspects, secondly to consider the international methods proposed to combat it, finally to note the nature of the opposition which has so far prevented the thorough application of these methods.

The drug evil exists in all parts of the world. Its victims may be divided into three categories, corresponding to three different drugs, or rather to two drugs in three different stages of manufacture.

Opium, the coagulated juice of the poppy plant, is produced chiefly in China, India, Turkey, Persia,

and, to a lesser degree, in the Balkans, in Turkestan, and in Afghanistan. The coca leaf is grown in Peru, Bolivia, and Java.

Opium is eaten, as so-called raw opium, chiefly in India. Coca leaves are consumed by the Indians of Peru and Bolivia. Although medical opinion tends in general to condemn the habit of eating opium and of chewing coca leaves as injurious, it is as yet not unanimous, nor absolutely categorical in so doing. On the other hand, the governments under whose rule this habit prevails declare that it is not only harmless, but positively useful and indeed indispensable for the health and well-being of their peoples. They therefore deprecate any external interference in this matter. They do so not on hygienic grounds alone, but also for general constitutional reasons. They argue that the question is one of purely domestic concern, all the more as the opium and coca-eating habit, being confined to the countries where the substances consumed are grown, gives rise neither to international trade, nor to international contagion. There is no doubt that if opium and coca were consumed in their raw state only and only in the producing countries, no cry would ever have been raised for international action on their account.

Both the poppy and the coca plant, however, supply the raw material from which dangerous drugs are extracted. It is for this reason that a demand has been formulated for the control of their production.

So-called "prepared opium" or "chandu" is raw opium boiled for smoking purposes. Opium-smoking prevails in China and among Chinese laborers, notably throughout the Far East, where they have to some slight extent transmitted their habit to the

native populations among whom they dwell. Although the dangers of moderate opium-smoking are variously estimated by health experts and students of the Orient, there is no doubt that it is a habit that is apt to become tyrannical and abusive and is then most deleterious in its physical and moral consequences. This is the drug evil in its second aspect. It had attracted general attention throughout the world, much more than the eating of opium and coca leaves, not only because its injurious effects seem more certain, but also because it is more international in its nature.

Opium may be and in fact often is grown in one country, prepared in another, and smoked in a third. As it is easily smuggled, a State, wishing to prohibit or to control smoking within its own borders, is naturally led to seek the coöperation of its producing, manufacturing, or trading neighbors. It is the drug evil in this, its second aspect, that mainly prompted the United States Government to summon the first Opium Conference in 1909.

To-day, however, international action seems still more imperatively justified by the growth of the scourge in a third sphere. The derivatives of opium and of the coca leaf, that is, chiefly morphine, heroin, and cocaine have given rise to what might be called a universal mortal disease, from which, in this unsettled, enfeebled post-war world, no country and no social class can claim complete immunity. In this, its third aspect, the drug evil is both peculiarly dangerous in its effects on the minds and bodies of its victims and peculiarly international in its action.

A Chinese coolie may be seeking relief from his daily toil under the tropical sun of the East Indies

by self-injection of morphine, which may have been manufactured out of Persian or Turkish opium in Germany, England, Switzerland, Japan, the United States, or India, the six morphine-producing countries. Or a languid film star in Los Angeles may be seeking for new sensations in still more unreal worlds than her own by inhaling cocaine, manufactured out of South American or East Indian coca in Germany, Holland, England, Switzerland, the United States, or Japan, the six cocaine-producing countries.

Such is the drug evil, this many-headed, all-devouring monster which finds ever more victims in every country and among every age, sex, creed, social station, race, color, or nationality.

The evil is of course one which every nation must combat for itself, as it is national and even individual in its incidence and as there can be no question of suppressing either the poppy or the coca plant or their derivative products, whose medicinal value is beyond question. But it is one that no nation alone can combat successfully. It has been shown and is becoming ever more obvious that no amount of purely national supervision and control can limit to the satisfaction of medical and scientific needs the trade in drugs. This is due to the fact that this trade, when illicit, is extremely profitable, as there is no price which an addict will refuse to pay for his favorite drug, and because these very costly products may be smuggled over any frontier in spite of the most ingenious efforts of the most numerous, painstaking, and incorruptible police force.

Before the League, under article 23 (c) of the Covenant, was entrusted with "the general super-

vision over the execution of agreements with regard to . . . the traffic in opium and other dangerous drugs," four international opium conferences had been held in 1909, 1912, 1913, and 1914, and four international instruments had been drafted and signed. The most important of the latter, the Hague International Opium Convention of January 23, 1912, was intended, as stated in its preamble, "to bring about the gradual suppression of the abuse of opium, morphine, and cocaine, as also of the drugs prepared or derived from these substances, which give rise or might give rise to similar abuses."

For this purpose the authors of the Convention had dealt, in three separate chapters, first with raw opium, second with prepared opium, and finally with "Medicinal Opium, Morphine, Cocaine, etc." With respect to the first point, the contracting Powers were to "enact effective laws or regulations for the control of the production and distribution of raw opium" and to take measures to prevent or control its export to countries which prohibited or restricted its import. With respect to the second point, the signatory States were to "take measures for the gradual and effective suppression of the manufacture of, internal trade in, and use of, prepared opium." At the same time they were to prohibit the import of prepared opium and if "not yet ready to prohibit immediately" its export, to regulate it in conformity with the wishes of the importing States. With respect to the third point, they were to "enact pharmacy laws or regulations to limit exclusively to medical and legitimate purposes the manufacture, sale, and use of morphine, cocaine, and their respective salts," and to "coöperate with one another to

prevent the use of these drugs for any other purpose." They were to "use their best endeavors" to control by means of licenses and permits the internal and international trade in these products, so that they might not be used for any illegitimate purpose.

Silent as was this Convention about the growing of coca leaves, loose to the point of practical insignificance as were its provisions relating to the restriction and control of raw opium, prepared opium, medicinal opium, cocaine, and their derivatives, it had not yet, when the war broke out, secured the number of signatures and ratifications necessary to put it into operation.

The part the League of Nations was called upon to play with regard to this previous diplomatic instrument was, first, to put it into force, then to create the machinery for its effective enforcement, and, finally, to improve its provisions, so as to make it a real weapon in the struggle against the drug evil in its triple aspect.

In order to achieve the first purpose, the following clause was inserted into the peace treaties containing the Covenant:

> Those of the High Contracting Parties who have not yet signed, or who having signed but not yet ratified, the Opium Convention signed at the Hague on January 23, 1912, agree to bring the said Convention into force, and for this purpose to enact the necessary legislation without delay and in any case within a period of twelve months from the coming into force of the present Treaty.
>
> Furthermore, they agree that ratification of the present Treaty should in the case of Powers which have not yet ratified the Opium Convention be deemed in all respects equivalent to the ratification of that Convention. . . .

However, as not all States were parties to the peace treaties, there remained in 1921 thirty States which were not yet bound by the provisions of the Hague Convention. Of these, three, Persia, Turkey, and Afghanistan were opium-producing countries and Switzerland was a drug-manufacturing country. As a result largely of the pressure of public opinion, focussed on the question by the debates in the Assembly, the number of ratifications has to-day grown from thirty-eight in 1921 to forty-nine.

In order to create the machinery required for the effective enforcement of the provisions relating to the control of the international drug traffic, the Advisory Committee on the Traffic in Opium and other Dangerous Drugs, set up by the Council at the request of the first Assembly, proposed the adoption of an import certificate plan, as follows:

> Every application for the export to an importer of a supply of any of the substances to which the convention applies shall be accompanied by a certificate from the Government of the importing country that the import of the consignment in question is approved by that Government and is required for legitimate purposes. In the case of the drugs to which Chapter III of the Convention applies, the certificate shall state specifically that they are required solely for medicinal purposes.

This system, approved by the Council and the Assembly, has at present been adopted by a considerable number of States, including the United States.

In spite of these efforts it was very clear, however, that, even if the provisions of the Hague Convention, supplemented by the import certificate system, were adhered to and carried out by all the States of

the world, the international drug traffic would not and could not be checked. It was therefore held by many students of the drug problem, by several delegations at the Assembly of the League, and also by the Congress of the United States, that the international trade could not be limited to the satisfaction of the medical and scientific needs of the world "without adequate restriction upon production, the source or root of the evil," as expressed by the Joint Resolution of the latter body, approved on March 2, 1923.

This view, however, never received any general international endorsement. It was always contested in particular by the governments of opium and coca-producing countries.

In the course of the last four years the drug question was continually discussed at League gatherings by the Advisory Committee, the Council, and the Assembly. The Government of the United States, which showed perhaps more interest than any other in the matter, followed these debates more and more closely until, in January, 1923, it allowed one of its representatives, Assistant Surgeon-General Rupert Blue to take part in the work of the Advisory Committee "in an unofficial and consultative capacity." By June, 1923, it was being represented "in an advisory capacity" by an important delegation composed of Congressman Stephen G. Porter, Chairman of the House Committee on Foreign Affairs, Bishop Brent, General Blue, and Mr. E. L. Neville of the State Department.

It would be quite impossible to follow the developments of the laborious discussions and negotiations which ensued in the course of the following months.

Suffice it to recall that they resulted in the summoning, by the Council of the League, of two international conferences for the autumn of 1924. The first was to be attended only by the representatives of States in whose territory opium-smoking still existed; the second by those of all members of the League and of all parties to the Hague Convention of 1912.

From the outset the United States held that the whole drug problem was one which could be solved only if the measures taken to restrict and control the manufacture and trade in drugs were based on a limitation of the production of the raw materials, opium and the coca leaf. It therefore claimed that, not having been invited to the first conference, it could legitimately ask that the competence of the second be extended, so as to allow for the consideration of the drug problem in all its aspects.

What followed is well known. The first conference promptly reached a complete dead-lock. Of the eight Powers represented, six, that is, Great Britain, France, India, Holland, Portugal, and Siam, declared that any further regulation of opium-smoking was fruitless as long as the production of opium continued uncontrolled in China. The Chinese representative, on the other hand, contesting the fact that opium was being exported from China to any considerable extent, urged immediate action on his colleagues. For his own part he could but declare that:

> . . . China gives assurances that, when the present disturbed political conditions in her territory come to an end, and a government with more effective powers is established, the production and use of prepared opium will, in fact, be prevented.

Finally, a Convention was drafted by the first conference, which although falling far short of the hopes of the uncompromising enemies of opium-smoking, still represents a real step forward in the direction of its eventual suppression.

In the meanwhile the second conference had met. The American delegation, which took by far the most important constructive part in its labors, met with the more or less open opposition of all the drug producing States. Their representatives declared that internal production for internal consumption was a matter of purely domestic concern and that they were not inclined to do more than to prohibit or restrict their exports to those States which prohibited or restricted their imports. The manufacturing States on the other hand were inclined to be sceptical about the advisability of limiting their own production as long as raw material was being placed on the world market in unlimited quantities.

The American delegation, hampered as it was by the explicit instructions of its Government—and of its Congress—withdrew on February 6, 1925, after having displayed much ardor and patience. It justified this step by explaining that in the eyes of the American Congress, effective control of the drug traffic could be obtained "only by limiting the production of drugs to the quantity required for strictly medicinal and scientific purposes, thus eradicating the source or root of the present conditions." As it appeared, they added, that the conference was not able to secure this limitation, the purposes for which they considered that it had been called could not be accomplished.

After the departure of the American delegation,

the Conference adopted a Convention, in which several of the suggestions made by the representatives of the United States are embodied and which, if ratified, would certainly be a distinct improvement on the Hague instrument. Although at present signed by twenty-four States, including the British Empire, Germany, France, Japan, and Holland, it has so far been ratified by no one.

In spite of the present most unsatisfactory state of the drug problem, the developments of the last years teach certain very interesting lessons, which will probably not be lost for the future.

In the first place, and this is a lesson which applies to all States and to all forms of international coöperation, it is always unfortunate for any delegation to come to a conference with its hands too closely tied by instructions. As M. Loudon, the Dutch delegate, said after the withdrawal of the American delegation:

> . . . The American delegation was bound by rigid instructions which made any elasticity impossible. I think it is desirable to point out, in view of further meetings of the same sort which may be held at Geneva, that an international conference presupposes the possibility of reciprocal concessions and true and real exchanges of opinion, and of goodwill on both sides, and such a conference is doomed to failure if any one of the parties has imperative orders to impose its will upon the others under pain of leaving the conference. Due regard to possible divergencies of view and to the force of the argument which may be advanced by the other side must be made.

In the second place, the recent Opium Conference showed how powerful were the political, economic, and financial interests involved in the production

and consumption of drugs. It was obvious that several countries were very reluctant to forego the revenue which they derived from the taxation of opium. It may be noted incidentally that, from a purely fiscal point of view, the opium tax is a well-nigh ideal one. It is easily collected and very productive and is, outside of China, borne mainly by foreigners voluntarily indulging in a practice which, if not necessarily vicious, is certainly not healthy.

It was obvious also that, quite apart from this immediate fiscal advantage, certain States which tolerated opium-smoking in the Far East, derived therefrom important, although indirect, economic benefits. They thereby secured Chinese labor in certain tropical regions where no equivalent native labor is available and without which material progress would be seriously retarded.

The fact that China itself, after an admirable and successful effort of self-restriction, has relapsed into a state of anarchical opium production, doubtless supplied her neighbors with a very welcome and plausible excuse for being content with taxing a trade which, if prohibited, would continue as contraband and fill the pockets of smugglers instead of their own exchequers.

But all these obstacles to effective limitation of poppy-culture and opium-smoking are either of a temporary nature or are such that they should and could be overcome with the help of public opinion in all civilized countries. On one further point, however, the opponents of international restrictive action were on very firm ground. When India declared that it had a perfect right to produce opium and Portugal that it was free to allow smoking in

its own possessions, as long as no foreign States could be affected thereby, they assumed a legal position which the United States, less than other States, could consistently assail.

Of course the American argument was based mainly on the assumption that no limitation of export could or would be effective as long as internal production continued unrestricted. But this argument was weakened by the reluctance of the American delegates to consider the plea of China's neighbors that their own action must be dependent on that of China. Besides, is it not fair to say that the United States, in seeking to combat opium-smoking by international means in the Far East, is actuated by more than the desire for mere self-protection? Did not Bishop Brent express her true motive and missionary spirit when, in his inspiring "Appeal to my Colleagues," addressed to the Conference before leaving Geneva, he declared:—

> . . . How is it going to look to the world, if we continue with our program as at present constructed, safeguarding our own national interests and leaving a vast section of the great Orient unaided and alien? Is it just for an international conference of such weight and solemnity as this to deal with the 10 per cent of the subject which affects Europe and America, leaving almost untouched the other 90 per cent which affects Asia? I was bold enough to say when I first spoke in this conference that it stands for more than the special questions which it was convened to consider. It stands for that mutual coöperation and sympathy which bridges oceans. It stands for equal justice for the peoples of the East, the peoples of the West, the peoples of the North, the peoples of the South. It stands in short for the peace of the world.

As an appeal to the conscience of the nations of the world, this declaration is very moving. As a statement of policy in international affairs, however, it is one which not isolationists alone, but all enemies of a super-State must regard with some uneasiness.

If the traffic in dangerous drugs can be effectively regulated only on the basis of restriction upon the raw product and if no international action may be taken except with the concurrence of the producing States, then it is clear that the only road open to reformers is that which leads to the persuasion of the governments of those States. Democracy within and world publicity without, will doubtless hasten this process of persuasion. And is not the League of Nations, in spite of all its shortcomings, the best instrument for securing both? As the Danish chairman of the recent Opium Conference said in his closing speech on February 19, 1925:

> . . . the drug question has entered upon a new period. It is now caught in the day-to-day machinery of the League of Nations. It cannot escape. Where the Hague Conference adjourned without leaving behind it either organization or permanent machinery, this present conference is but the opening step in a movement which will accelerate from day to day and from month to month.

Although there are few fields in which the League has been less successful than on the opium battleground, is it not obvious both that no international organism short of a super-State could have achieved more and that no system of occasional, disconnected conferences could achieve as much? To any impartial student, the answer to these questions must be in the affirmative. And that is the fourth reason why,

in spite of the advice of my American friend in Geneva, I have not refrained from presenting this thorny subject, as an example of the activities and methods of the League to promote national progress through international coöperation.

CHAPTER IV

THE LEAGUE TO OUTLAW WAR, WITH SPECIAL REFERENCE TO INTERNATIONAL PUBLICITY, REVISION OF TREATIES, AND ARBITRATION

Of the three Leagues in one, centered in Geneva today, the third, which we have called the League to outlaw war, is by far the most important, although still the least perfected. Varied and beneficent as have undoubtedly been the activities of the two others, neither the League to execute the peace treaties, nor the League to promote international cooperation, would have been born in their present form, had it not been for the universal desire, begotten by the war, that war should be outlawed by an international organization created for that specific purpose.

The cry of humanity, raised at the very outset of the world struggle by those who were to kill and die as well as by those who were to mourn their sacrifice, reëchoed throughout the frightful years of slaughter by the leading statesmen of all nations, belligerent and neutral, found its final expression in a solemn and universally accepted statement of international policy. It should be well known, but it is too often forgotten, and must therefore ever be recalled that the armistice, a morally binding contract, was signed on the basis of President Wilson's peace program, the last and most significant point of which reads as follows:

A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.

My purpose in this and the following lecture is to show how the League of Nations, originally conceived as a League to enforce peace, has step by step become what to-day more properly, although with much less precision, may be called a League to outlaw war. The fundamental purpose, the moral condemnation of violence in international affairs, has survived, but its political expression, the organization of might as a servant of right, has gradually lost its force in the renascence of national egotism, in the spread of mutual distrust, and in the confusion of the ideals of peace and justice, which have so lamentably characterized the first post-war years.

I hope also to show how, since 1924, a wholesome reaction has set in. Temporarily culminating in the drafting of the Geneva Protocol, this reaction has not yet exhausted its constructive possibilities after the eclipse of that extraordinary document. Wisely directed and generously supported, it may still lead our generation to the threshold at least of that era of just peace, which is the supreme hope of the civilized world.

It might be interesting no doubt, but it would be quite irrelevant to our present purpose, to explore the nebulous and far-distant regions where the idea of an international association for the prevention of war was first conceived and then to follow its slow and irregular growth through centuries of history. It is sufficient to recall the shock which all thought-

ful men and women the world over experienced when it was realized at the beginning of August, 1914, that a great war had broken out.

The horror of it was at first uppermost in most human minds. Soon, however, the stupidity and uselessness of the gruesome thing became apparent, adding to its horror. A crime was being perpetrated against humanity, but more sickening even than a frightful crime, an avoidable, tragic error was being committed. Not a majority of individuals in any country and no unanimous people anywhere really wanted war. But the war was being forced on a pathetically helpless world because, through years of peace, insufficient heed had been given to building up the necessary bulwark of institutions to withstand the first onslaught of blind national passion and to allow reason to triumph over brute force.

Public opinion, for a moment benumbed with horror, was soon aroused to thought and action by the word of its leaders. Everywhere, but particularly in those countries which were spared invasion and in which the traditions of government by persuasion and consent were strongest, the idea was expressed and propagated that the present war should at least result in making future wars impossible. Thus were born the thought and the will which are the parents of the League of Nations.

Among the spokesmen of this movement, not the first, nor the clearest, but the one who combined the greatest political influence and the most powerful personal eloquence with the most persistent purpose was undoubtedly President Wilson. I may therefore be pardoned if I here recall an interview I was privileged to have with him on November 1, 1917.

Sent to America by the government of my country in connection with our food problem, which America alone could assist us in solving, I had intended to make the most of a very rare opportunity to present a faithful picture of our difficulties to the man in the world who, more than any other, could help us to overcome them. But the conversation soon turned to the question which was uppermost in his mind, as in that of many of my Swiss fellow-countrymen.

"What I hope to achieve," said the President in substance, "is first a just peace, which all the world will recognize and accept as such. Having concluded a peace worth guaranteeing, I shall seek to have it guaranteed. The gentlemen of the League to enforce peace, who entertain a similar view, seem to have a great faith in machinery for that purpose, a faith I cannot fully share. Personally I count more on the force of organized opinion. What I should like to do for the world is what I unsuccessfully attempted to do for the American continent a year or two ago."

On leaving the White House, encouraged, but puzzled more than enlightened by this statement, I hastened to look for the text of the rejected proposals the President had alluded to. I discovered the draft treaty, about which the representatives of the South American republics in Washington had been sounded in the winter of 1914 to 1915, and found that they had provided for "a common and mutual guarantee of territorial integrity and of political independence," the very words which were eventually to find their way into article 10 of the Covenant. Besides this, the draft contained clauses relating to the investigation of disputes by permanent international com-

missions, to arbitration limited by the traditional exception of "honor, independence, and vital interests," and the agreement not to resort to war before the expiration of a year's delay pending peaceful consideration of the dispute.

No mention was made in this document of anything in the nature of sanctions which were, I surmise, deemed unnecessary in view of the tacit guarantee of the United States. It should certainly not be concluded from the silence of this draft treaty on this point, that President Wilson was during the war uncompromisingly opposed to the idea of enforcing peace. On May 27, 1916, already, in his famous address before the League to enforce peace, he had declared that "the world is even now upon the eve of a great consummation, when some common force will be brought into existence which shall safeguard right as the first and most fundamental interest of all peoples and all governments, when coercion shall be summoned not to the service of political ambition or selfish hostility, but to the service of a common order, a common justice, and a common peace."

The idea that to secure peace "the nations of the world must unite in joint guarantees," as he said on September 2, 1916, was ever with him and he never expressed it more forcibly than in his Senate address of January 22, 1917, when he said:

> . . . Mere agreements may not make peace secure. It will be absolutely necessary that a force be created so much greater than the force of any nation now engaged or any alliance hitherto formed or projected that no nation, no probable combination of nations could face or withstand it. If the peace presently to be made is to endure, it must

be a peace made secure by the organized major force of mankind.

That the "organized major force of mankind" was not, in President Wilson's eyes, to be deprived of the coöperation of America, he made very clear when, on the eve of the armistice, on September 27, 1918, he declared that "the United States is prepared to assume its full share of responsibility for the maintenance of the common covenants and understandings upon which peace must henceforth rest."

It is therefore an indubitable fact that even before the Peace Conference met President Wilson was almost as whole-heartedly in favor of a League to prevent war by force, if need be, as that eminent body of publicists who had clearly asserted their international ideal by founding what they had called "a League to enforce peace."

The whole of the Covenant, which was essentially the product of his coöperation with the British delegation, may on this point be held to express his views, although, as we shall see, they are most faithfully summed up in its article 10, which was his most significant personal contribution to the great document.

Let us now consider the nature and the functions of the League to enforce peace, as created by the Peace Conference. A close analysis of the Covenant from this point of view will reveal that its authors forged five distinct weapons with which war was to be slain. These weapons, whose mechanism and use I will now briefly examine, are international publicity, the revision of treaties, arbitration in the

broadest sense, collective sanctions, and disarmament.

The idea that the peace of the world was constantly being endangered by the hidden doings of secret diplomacy is by no means a novel one. It was quite naturally born of the experience of generations. Wars of the past have sometimes resulted directly from the application of international agreements of which those who were to be their victims had not been informed and more frequently from the general atmosphere of suspicion created by their mere existence. With the rise of democracy and the growing feeling among the masses that governments did not always fully share the love of peace which animated the governed, the unpopularity of secret diplomacy became ever more general.

No one felt it more acutely than President Wilson. He distrusted secret diplomacy both as an exponent of democracy and as the head of a great nation which had been drawn into a foreign war, the issues and possible consequences of which were obscured by interallied agreements of which he suspected the existence but ignored the exact contents. It is therefore not surprising that in the first point of his peace program he should have demanded:

> Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always frankly and in the public view.

It was due to President Wilson's own initiative also that article 18 was inserted into the Covenant, providing that

> Every treaty or international engagement entered into

hereafter by any Member of the League, shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

In execution of this provision, nearly a thousand treaties have been registered and published in the course of the last five years. It would be rash to assert that secret understandings had thereby been done away with entirely, but it would be denying evidence to declare that they had not become less numerous, more precarious, and therefore less important as a factor in international life.

In spite of an unsuccessful attempt in 1921 and 1922 to amend or interpret article 18, it is still in full force in its original simple wording, which leaves no room for ambiguity. States may of course agree among themselves to disregard its provisions and refrain from registering and publishing any international engagements into which they may enter. But, if they are members of the League, nothing can oblige them to execute such engagements, which are in no way legally binding upon them.

Significant and salutary as is this new departure in international practice, it is not the only nor perhaps the most important contribution of the League to open diplomacy.

The publicity of the meetings of the Assembly, of the Council, and of the Court and the prompt, if not entirely complete, publication of the proceedings of all these bodies, are circumstances which must undoubtedly in the long run make for justice and peace. They stimulate the interest of the peoples of the world in foreign affairs and thereby gradually educate them to think internationally, a necessary but

extremely difficult process. Moreover, they tend to hasten the progress of agreement and to secure the triumph of general over particular interests. Thus publicity becomes a most effective weapon of democracy in restraint of intrigue and ultimately of war.

Of course, as all weapons, international publicity must be used with discretion. There would not be many "open covenants" in the world, if they had all to be literally "openly arrived at," to use the Wilsonian phraseology. It is not necessary to possess the experience of an aged statesman, but entirely sufficient to have once sat on the committee of any athletic organization or to have perhaps proposed to a beautiful lady, to realize that in certain stages of discussion and negotiation, publicity may not favor, but prevent agreement!

Agreement between people of different minds and intentions presupposes mutual persuasion and mutual concessions. Now, no man, no woman, and especially no politician is encouraged to be persuaded into recognizing his previous errors or to make even necessary concessions at the expense of the interests he or she is representing, by the plaudits and hisses of a public gallery.

It is essential, however, for the sincerity and security of human relationships that all those who are affected by important collective decisions should be enabled to understand both their exact purport and the real motives which led to their adoption. What national parliaments are doing in this respect for their constituents in the field of domestic politics, the League has begun to do for the nations of the world. It may be said without exaggeration that, in the first five years of its existence, it has accom-

plished more for the democratizing of international affairs through publicity, than centuries of traditional diplomacy had accomplished before it.

The second means devised by the authors of the Covenant for the maintenance of peace is the revision of treaties. Article 19 provides that

> The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

The object of this clause is obvious. If the constitutions of States could not be amended by constitutional means, revolutions would be inevitable. So, if treaties could not be revised by any regular procedure, wars could not be avoided. If, on the other hand, war is to be outlawed as a means of altering the *status quo,* if international law, that is, essentially treaty-made law, is always to be enforced, then it becomes absolutely imperative to allow for the peaceful adaptation of international law to the changing exigencies of political evolution.

The origin of article 19 is extremely interesting. When President Wilson, in his original draft Covenant, formulated the principle of mutual guarantee, which was subsequently embodied in article 10, he qualified it by a most sweeping reservation. Article 3 of this draft read as follows:

> The Contracting Powers unite in guaranteeing to each other political independence and territorial integrity; but it is understood between them that such territorial readjustments, if any, as may in the future become necessary by reason of changes in present racial conditions and aspira-

tions or present social and political relationships, pursuant to the principle of self-determination, and also such territorial readjustments as may in the judgment of three fourths of the Delegates (at the Assembly) be demanded by the welfare and manifest interest of the peoples may be effected if agreeable to those peoples; and that territorial changes may in equity involve material compensation. The Contracting Powers accept without reservation the principle that the peace of the world is superior in importance to every question of political jurisdiction or boundary.

In his draft of January 20, 1919, Lord Robert Cecil had made a similar reservation, by providing that:

If at any time it should appear that the boundaries of any State guaranteed . . . do not conform to the requirements of the situation, the League shall take the matter under consideration and may recommend to the parties affected any modification which it may deem necessary. If such recommendation is rejected by the parties affected, the States Members of the League shall, so far as the territory in question is concerned, cease to be under the obligation to protect the territory in question from forcible aggression by other States, imposed upon them by the above provisions.

When these texts were merged into the famous Hurst-Miller draft of the Covenant, the provision relating to the mutual guarantee of territorial integrity and political independence survived, but was divorced from its qualifying clauses. All that remained of the latter in the final Covenant is the above quoted article 19. On this, as on so many other points, President Wilson abandoned much of his original conceptions, which, however bold, may well prove to have been more truly constructive and

statesmanlike than the views of his less imaginative and more conservative colleagues.

The subsequent history of article 19 is brief and not particularly promising for the immediate future. It has never yet been applied: the only demand made for its application having given rise to no action on the part of the League.

In 1920 Bolivia announced her intention of asking the Assembly to consider the possibility of the revision of the treaty of 1904 between her and Chile, by which she had been deprived of all direct access to the sea. At the opening of the second Assembly, in September, 1921, Mr. Edwards, the Chilean representative, strenuously opposed the suggestion that this request should be placed on the definitive agenda of the session. He declared:

> We base our opposition on a conclusive reason: the absolute and radical incompetence of the League of itself to revise treaties, and especially treaties of peace.

After this statement, calculated to rally to the support of the Chilean view France and all the other European nations which had profited territorially by the recent peace settlement, the matter was referred to a Committee of Jurists. Toward the close of the session this Committee reported as follows:

> That, in its present form, the request of Bolivia is not in order, because the Assembly of the League of Nations cannot of itself modify any treaty, the modification of treaties lying solely within the competence of the contracting States.
>
> That the Covenant, while insisting on scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, by article 19 confers on the Assembly

the power to advise (the French word in the Covenant is *inviter* that is to say "invite") the consideration by Members of the League of certain treaties or the consideration of certain international conditions.

That such advice can only be given in cases where treaties have become inapplicable, that is to say, when the state of affairs existing at the moment of their conclusion has subsequently undergone, either materially or morally, such radical changes that their application has ceased to be reasonably possible, or in cases of the existence of international conditions whose continuance might endanger the peace of the world.

That the Assembly would have to ascertain, if a case arose, whether one of these conditions did in point of fact exist.

The Bolivian delegation thereupon addressed a note to the President of the Assembly, in which it declared:

. . . that it loyally accepts the finding of the Committee, and does not insist that its request . . . should be placed upon the agenda of the Assembly in the form in which it was drawn up.

But, at the same time, it declares formally that the Bolivian Government reserves the right to submit its demand afresh to the League of Nations, in accordance with the principles and form laid down by the Covenant, and at the time which it considers most advisable.

The matter was thus shelved to the obvious relief of those members of the Assembly who had feared that a dangerous conflict might arise over it. Although the immediate conflict was thus avoided, it is doubtful whether the prestige of the League was enhanced by the action or inaction of the Assembly on this occasion.

It is to be expected and indeed hoped that similar questions will in time be referred to the League. The revision of any treaty will of course always be an extremely delicate and controversial matter, but it may be one on the satisfactory settlement of which the peace of the world may depend. The authors of article 19, in its present form, can certainly not be accused of having menaced the stability of existing conditions by unduly facilitating the process of revision. It was shown that the Assembly can only "advise" and not command. Even this advice, it would seem according to the letter of the Covenant, could only be given by an unanimous decision, that is, with the consent of all the interested parties. Now, when two States are prepared to advise themselves to reconsider a treaty, which they agree has become inapplicable, it is at least doubtful whether they require the support of the Assembly to proceed to its revision.

However, although article 19 is only a very timid step, it is certainly a step in the right direction on ground that may be dangerous, especially perhaps if too long left untrod. As long as treaties may become inapplicable and as long as international conditions may arise "whose continuance might endanger the peace of the world," that is, as long as the surface of the globe is divided among States with divergent interests and varying ratios of population and of wealth, article 19 offers at least an occasion of broaching delicate questions under conditions favorable for their peaceful settlement.

War has often been described as a crime against humanity. As all such literary and non-scientific definitions, in which terms are transposed from their

familiar sphere into another, this definition contains an element of truth, but also an element of error or at least of vagueness and inaccuracy.

Judged by its methods and its consequences, war, as an onslaught of violence on the existing state of affairs, is indeed comparable to a crime against the lives and the property of individuals in a well-ordered country. It is, however, essentially different from crime, as it may be, and before the creation of the League of Nations frequently was, the sole means of securing the triumph of legitimate interests.

This distinction I believe to be of more than academic significance, because it points to the great complexity of the question of peace and war, due to the present anarchical condition of international relations. Whereas a State may be said to have solved the immediate problem of crime, when it has provided for its prevention and repression, humanity would not have solved the problem of war, even if it had effectively prohibited international violence by enforcing such a prohibition against would-be transgressors.

As long as the States of the world have not agreed upon a legal method of peacefully settling all disputes which may arise between them, war will remain an inevitable expedient which in certain extreme cases may be considered legitimate. In other words, as long as a system of universal, compulsory arbitration will not have been set up, the outlawry of war will remain a mere phrase. By universal, compulsory arbitration, I mean a method adopted by, or at least open to, all the States of the world for the peaceful settlement, by an impartial authority, of all conceivable international disputes. War

will truly and completely have become a collective crime only when an alternative to war will have been devised and agreed upon as a means of deciding on the relative merits of rival national claims.

It is as a signal step toward this goal that the foundation of the League of Nations constitutes one of the most important and hopeful events in the history of mankind. The Covenant does not yet provide for universal, compulsory arbitration, as I have defined it. But it does establish a system of rules and institutions which, if developed and completed in the spirit in which they were conceived, will result in the creation of that necessary alternative to war, without which war cannot be outlawed, nor peace definitively founded on the basis of justice.

The relevant provisions of the Covenant are those contained in articles 11 to 15. It would be both impossible and unnecessary to analyze minutely and to comment fully upon these articles before the present audience, in the time allotted to me. It will be sufficient to call attention to the two main ideas which they contain. The first of these, expressed in article 11, which President Wilson liked to call his favorite article, is an idea of international solidarity. The other, developed in articles 12 to 15, which are to my mind the most essential of the Covenant, is the conception of an as yet rudimentary international order based on law.

Article 11 reads as follows:

> Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emer-

gency should arise, the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

The legal recognition of the social fact that the peace of the world is a matter of concern to the whole world is obviously fraught with the most hopeful possibilities for the future. There is no article in the whole Covenant which has been more often and more usefully invoked in the course of the last five years. "The friendly right . . . to bring to the attention of the Assembly or of the Council" international difficulties, has been exercised both by third parties and by the interested States themselves. For example, in 1920, Great Britain proposed that the Council consider the Aaland Islands affair, which threatened the good understanding between Sweden and Finland, and, in 1922, Bulgaria requested the Council to examine certain questions pending between herself and her neighbors.

Articles 12 to 15 provide for the peaceful settlement by an external body of those international disputes which the interested parties have been unable to adjust between themselves by the ordinary methods of diplomacy. When such a dispute arises, article 12 provides that the parties "will submit the matter either to arbitration or judicial settlement or to enquiry by the Council" and that they shall "in no case resort to war until three months after the

award by the arbitrators or the judicial decision, or the report by the Council."

It will be noted that the term arbitration is here used in a narrower sense than that in which I have employed it above. Arbitration *lato sensu* comprises arbitration *stricto sensu,* judicial settlement and decision by the Council.

When a dispute arises between States members of the League, in the absence of any special agreement between them, they therefore have the choice of referring it to arbitrators, to the Permanent Court of International Justice, or to the Council of the League. If they cannot agree on one of the first two possibilities, the case must come before the Council. As the Council, however, is a political and not a judicial body and as its decisions must be unanimous in order to be binding, the authors of the Covenant sought to encourage the litigants to resort to it only in cases in which disputes could not be properly settled by other means. They accordingly, in the first two paragraphs of article 13 provided that:

> The Members of the League agree that, whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration or judicial settlement, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration or judicial settlement.
>
> Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the nature and extent of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration or judicial settlement.

These clauses established what is termed the optional jurisdiction of arbitral or judicial bodies for the settlement of so-called justiciable disputes. When, in 1920, the first Assembly came to consider the Statute of the Permanent Court of International Justice, which was then set up, a great debate arose between the advocates of this system and those more advanced publicists who favored the principle of compulsory jurisdiction. A compromise was effected according to which the jurisdiction of the Court was rendered compulsory in justiciable cases, that is, in those enumerated in the above-quoted second paragraph of article 13, as between those States which were prepared to accept it by adhering to a special protocol to that effect. The jurisdiction of the Court was to remain optional as between the other members of the League.

The present position is therefore as follows:

The resort to the Council is compulsory for all States members of the League which have not been able to settle a political dispute by other means. It is compulsory also in the case of all other disputes when the parties have not agreed between themselves, either in the particular difficulty in question or in general by adhering to the above-mentioned special protocol, to go before an arbitral or a judicial body.

If a State member of the League were to resort to war without submitting its dispute to the competent authority or before the latter has reached its decision, or if it were to refuse to carry out such a decision in good faith, it would become guilty of a breach of its international obligations. The results of the

violation would depend on its nature, as we shall see when considering the matter of sanctions.

We should note immediately, however, that, under the existing provisions of the Covenant, war is not absolutely outlawed, nor justice absolutely secured. War is tacitly recognized as permissible in three or perhaps even four cases. The first case arises when the Council has not been able to reach an unanimous decision concerning the settlement of a dispute which has been regularly submitted to it. In such a case article 15, paragraph 6, provides that "the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right or justice."

In the second place, the resort to war is not forbidden as against a State which refuses to carry out an award of the arbitrators, a decision of the Court, or an unanimous recommendation of the Council.

In the third place, defensive war is, of course, always legitimate, except on the part of a State which has refused to comply with its obligations to carry out such an award, decision, or recommendation.

Finally, according to a contested, but still it would seem correct, interpretation of the Covenant,[1] war is not prohibited "if the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party." In that case, "the Council shall so report, and shall make no recommendation as to its settlement."

[1] *Cf.* David Hunter Miller, *The Geneva Protocol,* p. 65, New York, 1925.

Of these four cases, there are two, the second and the third, in which, not only is war authorized under the Covenant as at present drafted, but the use of force would have to be recognized as legitimate under any conceivable régime of international organization. Morality, international as well as private, would be weakened and not strengthened if recalcitrants could with impunity defy the law and if the victims of injustice were debarred from protecting themselves against those who transgressed it.

There remain, however, the two other cases in which war is at present tolerated and in which, as we shall see, the framers of the Protocol sought to outlaw it. These cases could not arise, even under the Covenant, if all States could be brought to agree to refer all their disputes to arbitration and would always accept its verdict. To my mind therefore the problem of perfecting the procedure for the effective outlawry of war is to be solved rather by extending the jurisdiction of the Court than by amending the Covenant.

In order to outlaw war completely by this method, three steps would be necessary, of which the last alone would for the present seem somewhat utopian.

First, all the States of the world, including those who have as yet deemed it inexpedient to join the League of Nations, should have to adhere to the Statute of the Court. It is indeed difficult to perceive what valid considerations could deter any peace and justice-loving country from such a step, which in itself involves no commitment whatsoever. May I be allowed to say in this connection with what joy the smaller States in Europe, and notably Switzerland, hailed President Coolidge's declaration made in his

message to Congress of December 3, 1924, to the effect that:

> America has been one of the foremost nations in advocating tribunals for the settlement of international disputes of a justiciable character. Our representatives took a leading part in those conferences which resulted in the establishment of the Hague Tribunal, and later in providing for a Permanent Court of International Justice. I believe it would be for the advantage of this country and helpful to the stability of the other nations for us to adhere to the protocol establishing that court upon the conditions stated in the recommendation which is now before the Senate, and further that our country shall not be bound by advisory opinions which may be rendered by the Court upon questions which we have not voluntarily submitted for its judgment.

We follow with great interest in Europe the controversy that is being waged in this country with respect to the advantages and dangers of the consultative functions of the Court. These are defined in the final clause of article 14 of the Covenant which provides that, "the Court may also give an advisory opinion upon any dispute or question referred to it by the Council or the Assembly."

If it were true, as is feared in certain influential quarters, that the effect of this clause was to deprive the Court of its legal independence and of its purely judicial character, or still worse to degrade it into becoming a mere political tool in the hands of the Council, it would rightly be condemned as mischievous and indeed disastrous. I am sure, however, that no well-informed and impartial observer will declare that the experience of the last years has in the least tended to justify these apprehensions. In fact it is

obvious that the very eminent judges who sit on the Court would not consent to remain there if they were exposed to being subjected to any political pressure from the governments of their country or of any other. But further, it would seem as if the real misgivings with which some of them at first viewed the advisory functions of the Court were giving way to a more favorable appreciation of their utility. The fact that such misgivings have been entertained is in itself reassuring, and not disquieting, as the danger of the Court becoming involved in political manoeuvrings would be much greater if its members were unconscious of this danger.

My own opinion is, that in so far as the advisory function of the Court tends to enlarge its jurisdiction and thereby to contribute to the judicial solution of international problems which, without it, would be settled on purely political lines by the Council, it is a distinct gain. In so far, on the other hand, as it might tend to deprive the Court of the opportunity of settling disputes which would otherwise be referred to it for final decision, it would be a loss. That it has had the first effect in most cases is certain. I should hesitate to say whether, in at least one case, it may not possibly have had the second.

In the question of the settlers of German origin, which Poland expelled from its territory, an advisory opinion was sought by the Council on February 3, 1923, and given by the Court on September 10 of the same year. The Council, on this as on all other occasions, adopted the opinion of the Court, which was unfavorable to the Polish view. But Poland, by a note of its Foreign Minister of December 1, 1923, while offering redress for the damages inflicted on

the expelled settlers, maintained its legal position. Now, according to the principle of the Minorities Treaties, the question would necessarily have had to be submitted to the Court for final decision, if any State represented on the Council had demanded it. Poland would in that contingency have been obliged to submit unconditionally.

In this case therefore there may, theoretically at least, have been a loss from the point of view of abstract justice. In practice, however, there may very well have been a real gain. Not only would the question probably never have been sent to the Hague, as we have seen that the members of the Council are not overanxious to press their rights against States which they suspect of having violated their international obligations with respect to their minorities. But further, even if such exceptional action had been taken, Poland, mortified at having been condemned as a litigant, might have openly rebelled, or more likely, would have submitted with a resentment hardly favorable to the future welfare of the expelled settlers.

My conclusion in this interesting matter which I have but time to touch on incidentally and not to examine in detail, is that the experiment in advisory opinions by the Court on which the League is engaged, should at any rate be continued for some time to come. It has certainly as yet given rise to none of the dangers feared for the independence of the Court and it has in several cases relieved political tension by throwing the light of justice on disputes obscured by national passion, which otherwise would have remained without its purview.

The second necessary condition for the complete

outlawry of war, as I see it, would be the general adhesion to the principle of the compulsory jurisdiction of the Court or of some other tribunal in all justiciable cases.

As long as a State can refuse to allow any judicial or arbitral body to consider disputes which, according to their nature, are clearly "suitable for submission to arbitration or judicial settlement," to use the above-quoted words of article 13, the reign of law and therefore of peace cannot be held to have been definitively established. For a statesman to proclaim the outlawry of war, while refusing to accept the compulsory jurisdiction of any tribunal for the settlement of all justiciable disputes, strikes me as about as futile as it would be for the captain of a baseball team to repudiate unfairness and sharp practices, while denying access to the field to any umpire.

From this point of view the nations of the world are at present divided into three classes: the members of the League which have signed the optional clause providing for compulsory jurisdiction, the other members of the League, and those States which have adhered neither to the Covenant, nor to the provisions of the clause in question. The first are bound to submit to the Court all justiciable disputes, recognized as such by the Court, and to abide by its decisions. The second are bound to submit such disputes, if not otherwise settled, to the Council and to abide by its decisions, if rendered unanimously. The third are free from all "entanglements."

There are at present twenty-three States in the first class, *i.e.*, all the former European neutrals,

except Spain; seven Latin-American republics including Brazil, with a reservation; France, with a reservation; the four new Baltic States, China, Austria, Bulgaria, Liberia, and Portugal. In the second class there are at present thirty-two States, including the British Empire and all its Dominions, Italy, Japan, Belgium, Czecho-Slovakia, Hungary, Poland, Roumania, Spain, Siam, and the majority of the South American States. The most important countries in the third group are the United States, Germany, Russia, Turkey, and Mexico.

However, even if all the States of the world would adhere to the clause providing for the compulsory jurisdiction of the Court in the case of every justiciable dispute, war would not yet be finally outlawed. There still would be no generally approved and accepted method of peacefully settling those disputes which spring from sources foreign to and independent of questions as to the interpretation of a treaty, as to international law, "as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the extent and to the nature of the reparation to be made for any such breach."

As a matter of fact, there are not as many such conceivable disputes as is sometimes imagined. Still there are some, and among them disputes of a particularly vital nature. How could they be dealt with?

There are, it would seem, two possible means toward that end. The compulsory jurisdiction of the Court or of some other arbitral body can either be extended by treaty to non-justiciable disputes or the sphere of non-justiciable disputes can be gradually narrowed down, until it reaches the vanishing point,

by the process of what is sometimes rather loosely referred to as the "codification of international law."

The first method, which has the advantage of being immediately applicable, has been adopted by my own country in her relations with two of her neighbors. It has been agreed between Italy and Switzerland that all disputes between them, of whatever nature they may be, if not otherwise settled, shall be submitted to the Permanent Court of International Justice, whose decision shall be binding and final. A treaty to the same effect has been signed between France and Switzerland, except that under its provisions non-justiciable disputes are not referred to the Court, but to a special board of arbiters.

It was this same method which the authors of the Geneva Protocol sought to apply on a world-wide scale. Should that remarkable instrument ever secure general support, war would really be outlawed, not because its preamble asserts "that a war of aggression constitutes . . . an international crime," as much as because a regular procedure for the peaceful settlement of all disputes would then have been adopted.

The other method is much slower and less spectacular in its application. Year by year, however, as a result of bilateral pacts, treaties, and understandings, growing up around the also increasing number of general conventions,—the great trees of the forest,—the underbrush of international law is gradually invading the whole domain of international relations. Thereby it is more and more limiting the surface of those open fields whence alone non-justi-

ciable disputes can still arise. Little by little the boundaries of what is held to be solely within the domestic jurisdiction of individual States are receding and the realm of what is governed by international law is expanding.

As mankind is growing more and more conscious of its unity, notwithstanding the temporary reactions of national protectionism and restriction of international migration, it is more and more insistently asserting its rights to the common use of this common globe. Nationalism may protest, but genuine patriotism need feel no alarm. For why should the love of one's immediate relatives and of the ancestral home fade away as the whole human family grows larger and more closely knit together?

War will be outlawed in the world, in the sense in which crime is in civil society, only when all international relations are governed by an international law adapted to their changing needs. But the outlawry of war as an ideal, is it not in itself an omen of the growing solidarity of the human race, which is coming to realize that war is not murder only, but suicide as well?

CHAPTER V

THE LEAGUE TO OUTLAW WAR (CONTINUED) WITH SPECIAL REFERENCE TO SANCTIONS AND DISARMAMENT

To outlaw war, the League, according to the Covenant, disposes of five weapons. In my last lecture I have briefly shown the mechanism of the first three, —publicity, revision of treaties, and arbitration,— and the use which had been made of them.

To-day, I propose to consider the two others,— sanctions and disarmament,—and to note the curiously contradictory evolution which the League to outlaw war has undergone at the hands of the first five Assemblies with respect to them. To anticipate the results of the present enquiry, I may say that when interpreting the provisions of the Covenant concerning sanctions, the Assembly has always tended to weaken their potential efficacy, whereas, in its efforts to promote the reduction of armaments, the same body has invariably proposed to increase it.

Let us first consider the problem of sanctions.

If a watchdog is to be relied upon to assure the security of the household, it must not only be able, under all circumstances, to distinguish its rightful master from ill-intentioned intruders. It must also be fit and prepared to use its teeth, if they should refuse to be dissuaded from their evil designs by other means.

So it is with the League to outlaw war. It is indeed necessary that it should set up an effective proce-

dure which will allow it to pronounce on the rights and wrongs of international differences. That it seeks to do by what we have called arbitration in the broadest sense. But arbitration alone, if it is sufficient to decide which of two litigants, if recalcitrant, is to be outlawed, is quite insufficient to outlaw war and still more to prevent war by enforcing peace. For that purpose the authors of the Covenant, in articles 10 and 16, provided for what is known as sanctions.

Even if I had not already had occasion to refer to article 10 in the course of these lectures, I suppose that it would be unnecessary to quote it here in America, where it was originally conceived, where it was most actively discussed, and where it was most pitilessly condemned. It is, if I may be allowed this incidental and irrelevant remark, a constant subject of surprise and dismay to us Europeans, that it should precisely have been the one clause of the whole Covenant which is purely and unmistakably American in origin, that, if we are correctly informed, should have done more than all the others to keep America out of the League. If European immigrants to America should as a rule exercise the same influence on their friends at home as this American immigrant to Europe has apparently exercised on his relatives on this side of the water, you would not be troubled with an immigration problem and we should not all be so anxious and so delighted to come to Williamstown!

Article 10 is couched in very general terms. It obliges the States members of the League mutually "to respect and preserve as against external aggres-

sion'' their ''territorial integrity and existing political independence.'' It further provides that in case of threatened or effectual violation of this undertaking ''the Council shall advise upon the means by which this obligation shall be fulfilled.''

Almost every word of this famous article has given rise to controversy. Does the duty to ''preserve'' the *status quo* involve any obligation besides those expressly mentioned in article 16? Is ''aggression'' synonymous with ''sudden attack,'' or may there be ''aggression'' even after the submission of the dispute to the complete procedure of arbitration provided for under the Covenant? Does article 10 crystallize the *status quo,* or does it allow for evolution? Are the members of the League guaranteed against the temporary occupation by a foreign Power of any part of their territory under article 10, or are they merely protected against ultimate conquest? May the parliament of a State member of the League refuse to allow its government to coöperate in the preservation of the territorial integrity of another member, victim of an aggression, or is the international obligation assumed subject to no tacit reservation? Does the refusal of a State to comply with the ''advice'' of the Council as to ''the means by which the obligation'' of guarantee is to be fulfilled constitute a violation of article 10? May the Council formulate such advice without the coöperation of representatives of all the States to which the recommendation is addressed? Or, in other words, may the Council address recommendations on this subject to States whose representatives have not been invited to sit as members of the Council while the advice was being formulated?

Such were some of the questions discussed, but not settled by the first Assemblies as to the proper interpretation of article 10. It is obvious that a provision dealing with so vital a matter as the question of peace and war, in terms which could give rise to doubt on so many points, was dangerously ambiguous. As the Honorable William S. Fielding, the representative of Canada, declared at the third Assembly: "You speak of secret treaties. If secret treaties are objectionable, ambiguous articles are quite as objectionable."

Besides being ambiguous, article 10 had, in the eyes of all the members of the League, the additional disadvantage of being considered as the main obstacle to the coöperation of the United States. This was openly recognized in several of the speeches delivered at the various Assemblies. Even when unexpressed, it certainly carried great weight with all the European governments and parliaments. In this connection I may perhaps be allowed to quote the example of my own country, whose policy with respect to the League is singularly frank, in that it annually publishes a full report on the work of the Assembly, including the instructions of its delegates to that body.

When, on December 4, 1920, Canada made the motion on the floor of the first Assembly "that article 10 of the Covenant of the League of Nations be and is hereby struck out" the Swiss Federal Council directed its delegation to support it. Since according to the Swiss official interpretation of article 10, its meaning was so vague as not to involve any objectionable commitments, the Swiss government was not particularly anxious to see it deleted. Never-

theless, the Federal Council favored the Canadian proposal because, as is stated in its report on the second Assembly: "to strike out article 10 of the Covenant would be, politically speaking, to make an important concession to a conception dear to North America."

The story of article 10 during the first four years of the League was briefly the following:

In 1920 the Canadian proposal was referred to the Committee on Amendments, which was to report to the second Assembly. After consulting a special Committee of Jurists, this Committee proposed an interpretation which was, however, not adopted. In 1921 Canada maintained her original position, her delegate, Mr. Doherty declaring: "Rightly or wrongly, we think we perceive a dangerous principle in article 10. By its wording it seems to lay down the principle that possession can take precedence over justice."

At the third Assembly, to which the question was again referred by the second, the situation was somewhat altered. A new Canadian government had come into power and had instructed its delegation no longer to demand the deletion of article 10, but its amendment, in order to make its meaning clearer. The Dutch *rapporteur,* Mr. Struycken, in his introductory speech, declared: "There can be no doubt that this article 10 is a source of greater perplexity than any other of the twenty-six provisions contained in the Covenant. By some it is regarded as the favorite sister, the good genius of the family which constitutes the League of Nations, ensuring to all its members that peace and security without which they could not live. . . . Some, on the other hand, re-

gard it with fear and mistrust as the evil genius of the house, the source of harmful responsibilities and of many serious perils and dangers." As a conclusion he again proposed postponement, remarking that: "There is a tendency for other ideas, connected with that of article 10, to creep as if by chance into the League from another direction: I mean the ideas regarding continental guarantees of territorial integrity and conventional guarantees, considered as a necessary factor in the solution of the problem of the reduction of armaments." Probably for this reason, to which we shall revert presently, the Assembly again decided to defer its final judgment.

In the meanwhile the Council requested the States members of the League to inform it of their considered views on article 10. Twenty-five replied, but the answers received revealed a very wide divergence of opinion. Finally at the fourth Assembly, on September 25, 1923, the following interpretative resolution was put to a vote:

> The Assembly, desirous of defining the scope of the obligations contained in article 10 of the Covenant so far as regards the points raised by the Canadian resolution, adopts the following resolution:
>
> It is in conformity with the spirit of article 10 that, in the event of the Council considering it to be its duty to recommend the application of military measures in consequence of an aggression or danger or threat of aggression, the Council shall be bound to take account, more particularly, of the geographical situation and of the special conditions of each State.
>
> It is for the constitutional authorities of each Member to decide, in reference to the obligation of preserving the independence and the integrity of the territory of Mem-

bers, in what degree the Member is bound to assure the execution of this obligation by employment of its military forces.

The recommendation made by the Council shall be regarded as being of the highest importance and shall be taken into consideration by all the Members of the League with the desire to execute their engagements in good faith.

The result of the vote on this resolution, which without clearing up all possible misunderstandings, doubtless tended to weaken the general sense of article 10, was extremely interesting: twenty-nine States voted in favor of it, one, Persia, voted against it, and twenty-two delegations abstained from voting.

Amongst the States which adopted it there were the seven members of the British Empire, the six ex-neutral States of Europe, the three members who in the League represented the Powers defeated in 1918, as well as France, Italy, Belgium, Japan, and several others. Whereas certain of the former would have preferred to see article 10 still further weakened, certain of the latter did not disguise their lack of enthusiasm for a resolution which they reluctantly adopted for reasons of political opportunism. The French delegate, Professor Barthélemy, for instance, declared: "To speak with candor and frankness, France would have preferred neither amendment nor interpretation. If she is to-day resigned to accept the interpretation proposed, it is due to certain new facts." . . . But the rest of the speech revealed no new facts whatever, except Canada's renewed insistence, coupled with her readiness to be content with an interpretation instead of an amendment.

Persia, who voted against the resolution, explained

that she felt that its adoption would deprive her of something of the security she looked for to the League. Her delegate, Prince Arfaed-Dovleh, made his position perfectly clear when he declared to the Assembly: "It is neither caprice, nor obstinacy, nor lack of esteem for, nor lack of sympathy with Canada which leads Persia to insist that article 10 should not be weakened. But compare the geographical and political position of Persia with that of Canada. Canada is situated on the Atlantic Ocean and forms part of the British Empire, whereas Persia is in Asia, surrounded by countries which do not belong to the League of Nations. Nobody would ever dream of attacking Canada, as that would mean attacking at the same time the British Empire. From this point of view also Persia's position is very different."

The most significant of all, however, was the composition of that body of States which abstained from voting on the resolution because they did not wish openly to antagonize the great Powers and notably France, but whose representatives in their speeches made no secret of their hostility to the tendency it expressed. This block was made up of the Little Entente, Poland and the four new Baltic States, together with certain Latin American States, of which Panama was the most outspoken.

It was quite clear that the States which favored the liberal interpretation of article 10 were those which, having nothing to fear for themselves, wished to avoid foreign entanglements, while those who refused to adopt it were mostly countries which, feeling exposed to possible aggression, looked to article 10 for protection. The potential warrantors were

quite obviously lined up against the potential warrantees.

The final result of four years of discussion and negotiation was thus the adoption by a majority of the Assembly of an interpretative clause. As this clause did not secure the unanimous support of the States voting, it cannot be said to possess any legally binding value. But it serves to show the trend of feeling prevailing toward article 10 in the League and it surely must act as a warning to those States which were inclined to expect too much from it in the way of guaranteed security.

Sanctions, that is, the legitimate and collective use of force to uphold the authority of international law, are implied, but not defined in article 10. In article 16, which is as British in origin as article 10 is American, they are, for certain specific contingencies, more expressly provided for. Article 16, the history of whose interpretation by the League I propose briefly to summarize, reads as follows:

> Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13, or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.
>
> It shall be the duty of the Council in such case to recommend to the several governments concerned what effective military, naval or air force the Members of the League shall

severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree further that they will mutually support one another in the financial and economic measures which are taken under this article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are coöperating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

Although these provisions are distinctly more precise and less ambiguous than those of article 10, they also are susceptible of divergent interpretations on various important points. Who, it may be asked, the individual members of the League or the Council, is competent to decide whether a State is guilty of having broken its covenants? Who is to pronounce on the nature of the sanctions to be applied and on the date on which they are to come into force? How is the "prohibition of all intercourse" with the "nationals" of the covenant-breaking State to be understood? Does it apply to all its nationals or only to those resident in their own countries?

These and various other questions relating to the interpretation of article 16 were all the more eagerly discussed immediately after the adoption of the Covenant as the recollections of the war and of the

blockade were still fresh in the minds of all and as the League itself was at first considered essentially as a League to enforce peace. Besides these questions of interpretation, article 16 also gave rise to certain difficulties of application, which were anticipated with particular anxiety by the Scandinavian States.

When the first Assembly met in November, 1920, it therefore had before it two definite suggestions concerning this article. On the one hand the Council suggested the appointment of an International Blockade Commission "for the purpose of studying the problem" of the application of the article and "settling the general plan of action, the organization of the permanent machinery required and the principles on which it should work." On the other hand the Danish, Norwegian, and Swedish governments submitted the following addition to the first paragraph of article 16:

> At the request of a Member for whom the application of the above provision might entail serious danger, the Council may authorize this Member to maintain intercourse, in such measure as the Council shall decide, with the covenant-breaking State.

The first Assembly, after prolonged debates, decided to recommend the appointment of an International Blockade Commission and to refer the Scandinavian proposals to the Committee on amendments. In the course of 1921, the Blockade Commission was set up and, on the basis of memoranda submitted by a considerable number of governments at the request of the Council, studied the whole problem of the possible application of article 16,

including the question raised by the Scandinavian governments.

The second Assembly, after devoting an appreciable part of its session to the examination of what had come to be called "the economic weapon" of the League, adopted four amendments to article 16 and nineteen resolutions, which were to "constitute rules for guidance which the Assembly recommends, as a provisional measure to the Council and to the Members of the League in connection with the application of article 16."

It would lead us into too great detail, were we to quote and to comment on all these texts. It is important, however, to note their general purpose, which is appreciably to weaken the provisions of article 16 by tending to render their application both less automatic and less stringent.

According to the first of the proposed amendments, the word "nationals," in the first paragraph of the article is changed into "persons residing in their territory." According to the second, "it is for the Council to give an opinion whether or not a breach of the Covenant has taken place." According to the third "the Council will notify . . . the date which it recommends for the application of the economic pressure." According to the last ". . . the Council may, in the case of particular Members, postpone the coming into force of any of these measures for a specified period."

The following extracts from the nineteen resolutions, which have been in force ever since 1921, also clearly reveal the general tendency of the decisions of the second Assembly in the matter of sanctions:

. . . . . .

3. The unilateral action of a defaulting State cannot create a state of war: it merely entitles the other Members of the League to resort to acts of war or to declare themselves in a state of war with the covenant-breaking State: but it is in accordance with the spirit of the Covenant that the League of Nations should attempt, at least at the outset, to avoid war, and to restore peace by economic pressure.

4. It is the duty of each Member of the League to decide for itself whether a breach of the Covenant has been committed. . . .

5. All cases of breach of Covenant under article 16 shall be referred to the Council as a matter of urgency at the request of any Member of the League. . . . The Council shall summon representatives of the parties to the conflict and of all States which are neighbors of the defaulting State, or which normally maintain close economic relations with it, or whose coöperation would be specially valuable for the application of article 16.

6. If the Council is of opinion that a State has been guilty of a breach of Covenant, the minutes of the meeting at which that opinion is arrived at shall be immediately sent to all Members of the League, accompanied by a statement of reasons and by an invitation to take action accordingly. The fullest publicity shall be given to this decision.

. . . . . .

10. It is not possible to decide beforehand, and in detail, the various measures of an economic, commercial, and financial nature to be taken in each case where economic pressure is to be applied. When the case arises, the Council shall recommend to the Members of the League a plan for joint action.

11. The interruption of diplomatic relations may, in the first place, be limited to the withdrawal of the heads of missions.

12. Consular relations may possibly be maintained.

. . . . . .

14. In cases of prolonged application of economic pres-

sure measures of increasing stringency may be taken. The cutting off of the food supplies of the civil population of the defaulting State shall be regarded as an extremely drastic measure which shall only be applied if the other measures available are clearly inadequate.

. . . . . .

16. Humanitarian relations shall be continued.

17. Efforts shall be made to arrive at arrangements which would ensure the coöperation of States non-Members of the League in the measures to be taken.

The last quoted of these resolutions points to the main reason of their general character, which might almost be approved of by a believer in the doctrine of non-resistance! It does not take very much imagination to realize, nor very much intelligence to understand that a blockade, in order to be effective, must be general and that a League, which does not count among its members at least two of the great commercial nations of the world cannot enforce a general blockade. Under present conditions, for the League to resort to its economic weapon would merely be to endanger the security of its members and to deprive them of a foreign market. The covenant-breaking State, to be sure, might suffer some inconvenience in changing its business connections, but certainly no more than those who were seeking to coerce it.

The *tertii gaudentes* would be the States outside the League whose merchants and manufacturers would doubtless not be slow to take the place of their blockading competitors. This is clearly recognized in the following passage of the report submitted to the second Assembly on September 21, 1921, by its special Committee on the Economic Weapon:

The authors of the Covenant had considered the League of Nations as an organization embracing all or nearly all States, and capable of prompt action in the event of breach of the Covenant. In the view of the International Blockade Commission, the application of article 16, even had the League been universal, might have formidable consequences either for the League of Nations in general or for some of its Members. But the afore-mentioned Commission was of opinion that, as the League of Nations had not yet attained a world-wide or nearly world-wide character, a very rigid application of article 16 would not only meet with very great obstacles, but might also place the States Members of the League in very difficult situations. That is why the International Blockade Commission has seen fit to recommend solutions which, in the present stage of the League of Nations, will, so far as possible, make allowance for the facts as they are.

When presenting this report to the Assembly, the *rapporteur,* Signor Schanzer, declared:

There can be no doubt that the most serious question, and, at the same time the most important question for the future, and I might even say for the existence of the League of Nations, is the question of the sanctions to guarantee the observation of the pledges and undertakings assumed by Members of the League in virtue of the Covenant.

Why is there still so much scepticism in many countries and in certain political circles in regard to the League of Nations and why is there still so much doubt in regard to its vitality and its power for effective action?

May I say quite frankly that the chief reason for this lies in the fact that, in general, the public has no confidence in the power of the sanctions at the disposal of the League of Nations to compel respect of the law by a State which desires to escape its obligations? Hence the great importance we attach to the correct interpretation of article 16; that is to say, to the employment of the Economic Weapon,

which certainly constitutes the most powerful sanction at the disposal of the League of Nations; and I would add the most characteristic sanction, and the sanction most in conformity with the spirit of the Covenant and with the idea which inspired the creation of the League of Nations, since it allows us, as far as possible, to avert wars and to settle international disputes by peaceful means. . . .

We must remember also that the system of article 16 was conceived (as the whole of the Covenant) on the hypothesis and on the assumption of a peaceful world and a universal or practically universal League of Nations. Unfortunately this assumption has not been realized up to the present, and this is the chief cause of the difficulties of application which confront us.

These two quotations suffice to show that and why there is no point on which the absence from the League to outlaw war of Germany, Russia, and particularly the United States more clearly and completely paralyzes it as an instrument for the maintenance of peace and justice in the world. As regards the application of economic sanctions against a Covenant-breaking State, there can be no neutrality. One may either contribute to the enforcement of the blockade or render it ineffective and therefore impossible. Political isolation and non-coöperation, whatever their motives, are in fact obstruction.

Sanctions were the means by which the League was to enforce peace, according to the provisions and intentions of its founders. As far as applicable between the States Members of the League, they were provided for solely in articles 10 and 16, whose evolution in the course of the last five years I have just sketched. By the various interpretations adopted, these articles have been so appreciably

weakened, that to-day no responsible European statesman would venture to stake his reputation and the security of his country on the potential protection of the League in case of international disturbance.

Not only have these articles been interpreted almost into insignificance, but they have never been really applied. Although on at least two occasions—Vilna and Corfu—the authority of the League was openly defied, it neither used nor even brandished its weapons against those who had resorted to theirs.

To revert to our initial simile, the watchdog, in the course of the last years, has made real progress in the arts of discernment. But it has lost its teeth, or rather, having grown wiser, it has come to realize that they were never as sharp as they may have appeared and that, under the circumstances, to bark was easier and even more effective than to try to bite.

The League, founded to enforce peace, has usefully promoted peace in many secondary ways, but as regards war, it has been content to outlaw it. This is implicitly recognized whenever it is said, as is ever more frequently said at each successive Assembly by influential statesmen, that not military force, nor even economic pressure, but public opinion is the real weapon of the League.

This change in character of the whole organization is not of course without its advantages. The less powerful in coercive action the League, the freer its members. But although this evolution has deprived the enemies of international coöperation of their main argument, based on the fear of entanglements and on the alleged menace of the so-called super-

State, it has correspondingly lessened the importance of the League as a bulwark of security against war, and thereby impeded the progress of disarmament.

This leads us to the consideration of the fifth and last peace-saving device recommended by the authors of the Covenant.

That armaments were in themselves a cause of war and not merely, as claimed by their apologists, an inevitable consequence of the fear of war and a necessary protection against war, has always been maintained by all thoroughgoing pacifists. On November 12, 1917, President Wilson in his Buffalo address before the American Federation of Labor, had said: "What I am opposed to is not the feeling of the pacifists, but their stupidity. My heart is with them, but my mind has a contempt for them. I want peace, but I know how to get it, and they do not."

This did not prevent him, however, a few weeks later, from embodying one of their main tenets in his peace program: "Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety." It was with the intention of giving and taking such guarantees that President Wilson proceeded to Paris in December, 1918.

At the Peace Conference he soon discovered that his colleagues were profoundly divided on this issue. Whereas the British delegation, and notably Lord Robert Cecil and General Smuts, warmly supported his view, at least with respect to land armaments, his other associates, and particularly the French, the Italian, and their continental allies, strongly op-

posed them. They all readily agreed on the necessity of disarming their enemies and even consented to preface the Military, Naval, and Air clauses of the Treaty of Versailles with the following declaration:

> In order to render possible the initiation of a general limitation of the armaments of all the nations, Germany undertakes strictly to observe the military, naval and air clauses which follow.

When it came, however, to this "initiation" the continental European Allies with one voice declared: "First give us guarantees against the renewal of the aggressions of 1914, for instance by endowing your League of Nations with a reliable international police force. Then and then only will we agree to the reduction of our own armies. They alone saved us from annihilation in the war and until you will have supplied us with an adequate substitute we cannot and will not dispense with them."

The result of this conflict of views was necessarily a compromise. But although the American and British delegations were obliged to make many concessions in the drafting of the peace terms and in spite of the signature of the famous Treaties of Assistance to France, the Covenant finally provided neither for the abolition of conscription, as at first proposed by President Wilson and the British, nor for any definite guarantees of prompt disarmament. The most that could be agreed upon were the provisions of article 8, the first four clauses of which read as follows:

> The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety

and the enforcement by common action of international obligations.

The Council taking account of the geographical situation and circumstances of each State, shall formulate plans for such reductions for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

On the other hand, the French and those who had supported their original demand for the establishment of a permanent international general staff at the head of an international police force had also to sacrifice the essentials of their program in order to secure the necessary agreement. They were obliged to be content with the constitution, under article 9 of the Covenant, of "a Permanent Commission to advise the Council on the execution of the provisions of . . . article 8 and on military, naval, and air questions generally."

When the League came into being, the Council set up this Commission and decided that it was to consist of one military, one naval, and one air representative nominated by each of the Powers represented on the Council. The Permanent Armaments Commission, as it was called, was then entrusted with the task of considering the questions to which the application of article 8 could give rise. As was to be foreseen, this Commission approached the problem of the reduction of armaments with extreme caution and even reluctance. Could it be expected otherwise of a body of professional military men appointed and

instructed by their respective war ministries, which, according to the original intentions of those who had pressed for its creation, was to organize an international army and not to study the question of the limitation of national armaments? In December, 1920, this Commission adopted the following resolution on the subject:

> The Military Commission does not consider that a reduction of armaments can be profitably considered and effectively ensured in the present state of the world and having regard to the actual composition of the League of Nations.
>
> This reduction depends:
>
> (1) upon the entire execution of the military, naval, and air clauses of the Treaties of Peace.
>
> (2) upon the maintenance of such execution by means of the investigations provided for in the Treaties of Peace;
>
> (3) upon the practical and early organization of co-operative action on the part of the League of Nations.
>
> Until these conditions are fulfilled, the Military Commission can only prepare for the reduction of armaments by means of the information which it has at its disposal, and which will be asked for from the different States.

This was certainly not an auspicious beginning. It pointed, however, in the direction in which the League was to advance in the course of the following years. If the reduction of national armaments was to be made dependent upon "the practical and early organization of coöperative action on the part of the League," then it was necessary first to devise a perfect system of collective sanctions. Consequently the same successive Assemblies which, at the suggestion of their legal and political committees, had,

as we have just seen, gradually weakened articles 10 and 16, on the other hand, acting partly on the advice of their military experts, proceeded to consider various schemes of mutual guarantees which went far beyond their provisions and, in September, 1924, finally culminated in the elaboration of the Geneva Protocol.

Having observed the evolution which gradually transformed the League to enforce peace into a League to outlaw war, we shall now briefly recall the successive steps which, during the same period, led up to the conception of a League to reduce armaments by effectively prohibiting war.

Before doing so, however, we must note that, besides the efforts to reduce armaments according to this indirect method, attempts were also being made at Geneva to apply the apparently more direct method of simultaneous and progressive disarmament, which, in a limited sphere, was so successfully adopted at the Washington Naval Disarmament Conference in 1921-1922.

On the one hand, the first four Assemblies all adopted, in some form or other, a recommendation inviting the governments of the States Members of the League at least not to increase their military expenditure. This course was strongly urged by the Scandinavian delegates and notably by Mr. Christian Lange, the eminent Secretary General of the Interparliamentary Union acting in his capacity as Norwegian representative. These Assembly decisions, always very diplomatically, that is, very loosely, worded and never supported by a convinced and unanimous body of opinion in the Assembly itself, may have produced some impression on the

public in various countries, but they certainly had no appreciable effect on the state of national armaments.

The fifth Assembly on September 27, 1924, decided that it did "not consider it necessary to repeat the recommendation regarding the limitation of expenditure on armaments, as this question is to be placed upon the agenda of the International Conference for the Reduction of Armaments," which would have met this summer if the Protocol had received the necessary number of ratifications.

On the other hand, a plan providing for the gradual and simultaneous reduction of the man-power in land armies, drawn up by Lord Esher, was considered in 1921 and 1922. It was finally abandoned, however, because the technical objections it raised were deemed insurmountable.

The League therefore soon fell back on the indirect method of approach, according to which national armaments were to be reduced only when, and in so far as, the League could, by establishing international security, relieve its members of the necessity of maintaining them. This method which had already been urged by the French at the Peace Conference, had in fact been agreed to in principle by the framers of the Covenant, since it is said in article 8 that national armaments were to be reduced "to the lowest point consistent with national safety."

As we have seen, President Wilson had spoken only of "domestic safety" in this connection. This expression had been dropped in Paris, after a spirited debate, not only because, not being entirely clear, it could not be readily translated into French,

but principally because it seemed to limit unduly what the European majority held to be the legitimate sphere of national armaments.

During five years the Council and more particularly the Assembly have sought to apply this method. In order to lower the point to which national armaments could safely be reduced, they have studied the possibilities of increasing national security by international guarantees. In this task they have been assisted by two advisory bodies.

We have already mentioned one of them, the Permanent Military Commission, whose members are all professional soldiers, sailors, or aviators. This body which had been set up by the Council before the meeting of the First Assembly, struck certain members of the latter body as not perhaps being alone qualified to give useful advice as to the solution of a problem which was military in only one of its various aspects. At the request therefore of the first Assembly, the Council, on February 25, 1921, set up "a Temporary Commission . . . for the purpose of submitting to the Council in the near future all evidence and proposals connected with the question of the reduction of armaments contemplated by article 8." It further decided that

> This Commission shall include:
>
> Six persons of recognized competence in political, social and economic matters;
>
> Six members of the Permanent Military Commission selected by the Commission;
>
> Six members of the Governing Body of the International Labor Organization, of which three members shall be employers and three workmen representatives.

It is by this so-called Temporary Mixed Commis-

sion, thus constituted and subsequently somewhat enlarged, that all the disarmament plans submitted to the Assembly in the course of the following years were first prepared and elaborated. The second Assembly in 1921 entrusted it with the duty of making "proposals on general lines for the reduction of national armaments which, in order to secure precision, should be in the form of a draft treaty or other equally definite plan, to be presented to the Council, if possible, before the Assembly next year."

Thereupon the Temporary Mixed Commission, although declaring itself unable to draw up a draft treaty, proceeded to collect the necessary material for the purpose. It accordingly requested the Council to transmit to all the States Members of the League the text of the following resolution which the second Assembly had adopted:

> That, as soon as possible, each of the Governments should be asked to furnish a statement of the considerations it may wish to urge in regard to the requirements of its national security, its international obligations, its geographical situation, and any special circumstances.
>
> The Governments should be especially requested to indicate separately the police and military forces which they consider indispensable for the preservation of domestic order, and the expenditure entailed thereby.

Together with the replies received to these queries, the Temporary Mixed Commission submitted a statement to the third Assembly, on the basis of which a number of very significant resolutions concerning disarmament were adopted. The most important of these was the Fourteenth which read as follows:

(a) The Assembly, having considered the report of the Temporary Mixed Commission on the question of a general Treaty of Mutual Guarantee, being of opinion that this report can in no way affect the complete validity of the Treaties of Peace or other agreements which are known to exist between States and considering that this report contains valuable suggestions as to the methods by which a Treaty of Mutual Guarantee could be made effective, is of opinion that:

1. No scheme for the reduction of armaments, within the meaning of article 8 of the Covenant, can be fully successful unless it is general.

2. In the present state of the world many States would be unable to accept the responsibility for a serious reduction of armaments unless they received in exchange a satisfactory guarantee for the safety of their country.

3. Such a guarantee can be found in a defensive agreement which should be open to all countries, binding them to provide immediate and effective assistance in accordance with a pre-arranged plan in the event of one of them being attacked provided that the obligation to render assistance to a country attacked shall be limited in principle to those countries situated in the same part of the globe. In cases however, where, for historical, geographical or other reasons, a country is in special danger of attack, detailed arrangements should be made for its defence in accordance with the above-mentioned plan.

4. As a general reduction of armaments is the object of the three preceding statements, and the Treaty of Mutual Guarantee the means of achieving that object, previous consent to this reduction is therefore the first condition for the Treaty.

This reduction could be carried out either by means of a general Treaty, which is the most desirable plan, or by means of partial treaties designed to be extended and open to all countries.

In the former case, the Treaty will carry with it a gen-

eral reduction of armaments. In the latter case the reduction should be proportionate to the guarantees afforded by the Treaty.

The Council of the League, after having taken the advice of the Temporary Mixed Commission, which will examine how each of these two systems could be carried out, should further formulate and submit to the governments for their consideration and sovereign decision the plan of the machinery, both political and military, necessary to bring them clearly into effect.

(b) The Assembly requests the Council to submit to the various Governments the above proposals for their observations and requests the Temporary Mixed Commission to continue its investigations, and in order to give precision to the above statements, to prepare a draft Treaty embodying the principles contained therein.

This resolution, as its involved wording alone would indicate, was a compromise reached between the conflicting tendencies of two clearly defined groups of States. The one, represented notably by the British Empire, striving toward disarmament as an end, considered a general treaty of mutual guarantee as the normal means to that end, and reluctantly accepted the special treaties as an unfortunately necessary concession. The other group, headed by the France of Poincaré, looked upon security as the one important end, relied on the special treaties as the safest means of attaining it, were content to agree to a general treaty as offering a subsidiary guarantee, and as for disarmament, relegated it into a happily hazy future.

This resolution was faithfully carried out, so that the fourth Assembly, meeting in September, 1923, had before it a carefully prepared draft treaty of mutual assistance, in which provision had been made

both for a general and for special agreements between the signatories. The French tendency had, however, so far prevailed that most States which did not belong to the inner circle politically centering at Paris, looked upon the proposal with misgivings and often with distinct distrust.

After particularly long and laborious debates, the fourth Assembly, on September 29, 1923, adopted the following resolution, which does not disguise the profound divergencies of opinion of those who voted in its favor, none with real enthusiasm and many with open reluctance:

> The Assembly,
>
> Having taken cognisance of the draft Treaty of Mutual Assistance drawn up by the Temporary Mixed Commission and amended by the Third Commission as a result of an exchange of views between its members, some of whom spoke in their personal capacity;
>
> Considering that this discussion has revealed some divergences of view and, further, that a large number of Governments have not yet expressed their opinions on Resolution XIV of the Third Assembly:
>
> Decides to request the Council to submit the draft Treaty of Mutual Assistance to the Governments for their consideration, asking them to communicate their views in regard to the afore-said draft Treaty.

The child of the fourth Assembly, so timidly presented to the world by its sponsors, was not long to outlive the critical reception it received from all sides. It soon became obvious that nobody except France and some of her allies regarded it with any favor and their solicitude could but prolong its agony. Disarmament as a goal seemed as far away as ever, since it appeared not less unapproachable

by the roundabout way of guaranteed security, as by the direct path of simultaneous collective action.

It was without much confidence therefore that, at the beginning of September, 1924, the delegates of forty-eight countries assembled at Geneva. Presently, however, a new hope seemed to animate them. It began to be rumored about that Mr. Ramsay MacDonald and Mr. Herriot, the two liberal statesmen who had come into office in Great Britain and France and had just happily reached an agreement on German reparations, had also agreed on a new general scheme of security and disarmament. Arbitration, as provided for in London in the Dawes plan and as advocated by certain American friends of the League for the general purpose of pacification, began to loom large in the minds of all, as a possible means of securing not only justice, but security and disarmament as well.

The product of the labors of the fifth Assembly, which had attracted to Geneva most of the leading statesmen of Europe and not a few from over the seas, was the Protocol for the Pacific Settlement of International Disputes, commonly known as the Geneva Protocol. It would be impossible at the close of this lecture and it would doubtless be unnecessary before this audience to analyze this intricate but admirably ingenious document. May I, however, in conclusion, recall its main features?

The Protocol may be defined in one sentence as being an attempt to promote disarmament by creating security, to create security by outlawing war, to enforce the outlawry of war by uniting the world against the would-be aggressor, and to base this union of mutual protection upon the fundamental

principle of universal compulsory arbitration. At every step the ingenuity of its authors has sought to meet possible objections by an apt retort. To those who shrink from disarmament for fear of invasion, they offer a protective system of international sanctions, far more effective than any national army could be. Those who are reluctant to commit themselves in advance to any collective action for fear of being drawn into an unjust war, they reassure by a complete system of arbitration designed automatically to enlist justice on their side. To those who look upon national armaments as the main menace to peace, they reply that by no other method can national armaments be reduced.

Compared with the Covenant, which it is intended to implement and which it would indeed amend, the Protocol is far more uncompromising in its outlawry of war, far more stringent in its sanctions, and far more intricate and complete in its procedure for the pacific settlement of disputes between nations. The Covenant is to the Protocol what a sketch of the impressionist school is to a precisely drawn etching of a sixteenth-century master.

Under the Covenant war is always deprecated but sometimes tolerated. Under the Protocol all wars are forbidden. The Covenant seeks to promote the reduction of armaments. The Protocol becomes null and void if it is not effected. Under the régime of the Covenant the jurisdiction of the Court is optional in justiciable cases. Under the Protocol it is compulsory. Under the Covenant the peaceful settlement of non-justiciable disputes is more or less assured if the Council, to which such disputes are ultimately referred, is unanimous in its recommendations.

Under the Protocol a pacific settlement must be reached in all cases. The violation of certain clauses of the Covenant may give rise to recommendations of the Council with respect to joint economic and military action against the transgressor. In case of violation of the main provisions of the Protocol, the Council "calls upon,"—the French text not accidentally uses the much stronger expression "enjoins"—the signatory States "to apply forthwith against the aggressor the sanctions" destined effectively to outlaw him.

To sum up, the League as established under the Covenant, interpreted as we have seen, is a loose association of sovereign States which have agreed not to go to war themselves if they can avoid it and to repress the violence of others in the common interest of peace, if they should deem it expedient and consonant with their national interest to do so. If the Protocol were ever substituted for the Covenant, the League would become, if not a perfect super-State, at least a close international community of which each member had deliberately sacrificed an appreciable part of his independence on the altar of general peace. It would then and then only have become a true League uncompromisingly to outlaw war and effectively to enforce peace.

It should be obvious to all those who prefer clear thinking and frank speaking to the declamatory, demagogical, or diplomatic expression of vague and fanciful notions, that the existence of such a League is conceivable only if built upon the ruins of the current dogma of untrammelled national sovereignty. The wonder is not, that under existing political conditions, such a League should not exist, but that it

should have been possible to bring the representatives of some fifty nations to recommend its creation "to the earnest attention" of their governments, as they unanimously agreed to do in Geneva on October 2, 1924.

To my mind, the Geneva Protocol in its present form is unfortunately no longer, or rather, not yet, a matter of practical politics. If it be true that in 1919 the framers of the Covenant were ahead of the times as the developments of the last six years tend to show, during which, as we have seen, part of their most constructive work has been undone by the process of interpretation, how can it be denied of the authors of the Protocol?

I hasten to add, however, that there is no more honorable nor more useful error that a statesman can commit than to overestimate the possibilities of progress. Those alone can lead humanity on its upward path who precede it with their hopes and visions. The doubts of the sceptic and the sneers of the cynic, who lurk behind in its trail, have never hastened, but ever retarded its forward march.

Although the League to outlaw war has not entirely lived up to the ambitions and expectations of its founders, it has already done more in five years to promote international coöperation and to prepare for the final establishment of peace than had been accomplished by generations of traditional diplomacy. So also with the Protocol. Had it done nothing but to give a new impetus to the world movement in favor of arbitration, it would already have fully justified the labors of its authors.

For this is, to my eyes, the great lesson which the last years have taught: peace can be securely

founded only on justice, for the establishment of which compulsory arbitration is the necessary tool. To develop sanctions before fully providing for arbitration is like organizing police forces before setting up police courts. Sanctions may preserve peace for a time, as they may also consolidate the rule of violence. They can never alone secure just peace, which is the only peace worth securing.

That is why I regard the creation of the Permanent Court of International Justice as the greatest and most lasting achievement of the League, which began its career with the intention of enforcing peace and has been led by the logic of circumstance to pursue it in the hope of outlawing war. And this is why also, if I may be allowed as a foreigner to express an opinion on this question of American policy, the movement toward the Court which, I understand, is setting in in America, is a most sound and hopeful movement. To outlaw war definitively one must first definitively establish the reign of law. That is the purpose of the Court, that is the aim of arbitration, and that is the great hope of the future.

CHAPTER VI

THE LEAGUE AND THE NATIONS

Casual visitors to Geneva, being shown around the Secretariat and the International Labor Office and meeting perhaps some of the very able higher officials there, frequently appear to be under the impression that they are in contact with the government of the League. This impression, which everyone connected with the League in Geneva does his best to dispel, is of course entirely erroneous.

As all national civil servants, the permanent officials of the League are no doubt an essential part of the governmental machine, but they are by no means its motor. It is true that they probably take a larger proportional part in the working of the machine than do national civil servants under ordinary conditions. This is due to the fact that, whereas national governments are run by politicians who, while in office, usually devote all their professional energies to their task, the government of the League is in the hands of men whose main duties lie in other fields. The latter are therefore still more dependent on the coöperation and advice of permanent officials than the former. Still the officials of the League can do no more than advise and their advice may be, and often is, disregarded.

The real government of the League is not in Geneva, except during the sessions of the Council and of the Assembly, and even then only in part. The League is in reality governed, not from its seat, but

from and by the ministries and parliaments of the States members of the League.

In other words, the League of Nations, far from being a super-State is but, as its name indicates and as our previous lectures have, I hope, made quite clear, a very loose association of sovereign political entities, each of which retains a share of the government of the whole. This is so true that it is debatable whether the League, as such, may really be said to possess a government and a policy of its own, or whether its existence is not merely assured by a series of successive international agreements unanimously reached by its members.

The latter conception is that of many of the friends and servants of the League who, in their desire to combat the phantom of the super-State, define it as being nothing but a new method of international coöperation. This view is, in my opinion, incorrect, because those who hold it underestimate the importance of what might be called the process of corporate integration, by which any social group, no matter how loosely organized, always results in the creation of an entity somewhat different and distinguishable from the sum of its constituent parts.

However, it is obvious that, in order fully to understand the action of the League, its difficulties and its limitations, it is indispensable to consider the foreign policy of the States which compose it and their attitude toward the body of which they are the members. I speak particularly of its difficulties and limitations in this connection because, as the speed of a convoy cannot exceed that of its slowest ship, so the progress of the League may be impeded by the tardiness of a small minority of its members.

Of course, again as in the convoy, the faster and more powerful vessels may take others in tow, so in the League the less advanced nations may be stimulated by the leadership of the more advanced as well as by the pressure of emulation.

It is this very beneficent factor of international contagion which is alluded to when reference is made to "the League spirit" or to "the atmosphere of Geneva." This factor has proved so effective that, on the whole, the progress of the League has been much less retarded by the obstruction of even its most obstructive members, than by the action or merely by the lack of coöperation of those States which are still outside its ranks. To compare the latter to the craft which, during the war, sometimes from without, delayed convoys in their trips across the Atlantic, might seem disobliging and I shall therefore refrain from reverting to my simile!

If we should attempt to group the States within the League according to their views as to its essential purpose, we might distinguish three main classes, whose ruling policies might be respectively characterized by the mottoes "Security first," "Peace first," and "Justice first."

In the first category we should find France, Belgium, Poland, the Little Entente, and the new Baltic States. These are the countries which either suffered most from the war, profited most from the peace settlement, or both. Having undergone invasion or having been created or territorially enlarged at the expense of the defeated Powers, their one dominating fear is that of renewed invasion at the hands of revengeful enemies, and their one demand is that of

protection. They therefore look to the League for security first.

The British Empire constitutes almost by itself the second category of nations. Having suffered from the war less directly than France and her continental allies and having firmly consolidated its maritime supremacy, at least in Europe, the British Empire feels both less menaced by its former foes and more inclined to let by-gones be by-gones. The sporting instinct of the Anglo-Saxon, which leads him to shake hands with an opponent after a fight, no matter how bitter, his inveterate dislike of militarism and conscription, the economic necessity constraining a great trading empire to retrieve lost markets and to reëstablish normal business connections all over the world—all these factors combine to make for the same goal. For the British Empire the primary function of the League is to restore and to maintain peace first.

In the third group, which is appreciably less homogeneous than the other two, we would place the former European neutrals and practically all the Latin American States, to which, in many respects, might be added the defeated Powers. None of these States feels actually and immediately threatened by any would-be invader. As their frontiers have not in recent times been extended, they have no vindictive neighbors to fear. Not being militarily and politically strong, they are less exposed to jealousy and covetousness on the part of the great Powers than to a certain humiliating condescension to which they are extremely sensitive. They are more apprehensive of being disregarded, bullied, manoeuvred, and pacifically absorbed than of being attacked. On the

whole they feel less secure in their national dignity and independence than in their territorial integrity. On the one hand they realize that in international negotiations they may be subjected to political pressure which they could not resist. On the other hand, being free from narrow ambitions and not aspiring to anything they are not prepared to share with all the other members of the League, they are conscious of the strength of their moral and legal position in the world. For these reasons they are firm believers in arbitration and much prefer to submit their differences to the jurisdiction of the Court rather than to the political judgment of the Council. In the eyes of these States, the League was established primarily to secure the predominance of right over might. What they demand of it is that, under all circumstances, it shall always place justice first.

This classification should of course not be too rigidly interpreted. It must be understood first, that no two States, being quite alike in their internal structure, nor in precisely the same position on the international chessboard, can have exactly the same foreign policy.

In the second place, it must be understood that the foreign policy of a given State may always, to a certain degree, be influenced by the character of the government in power and that, as governments change, policies may change with them. On the whole, however, it is striking to note how much less the general course of international events is affected by the domestic politics of the various countries than the violence of internal party struggles might lead one to believe, and how preponderant is the action of

the relatively permanent factors of geography, race, economic interests, and demography.

Finally, it must be understood that the system of classification I have ventured to suggest is based on differences of emphasis and degree, more than of fundamental purpose. To place security first in the order of international preoccupations is by no means tantamount to being indifferent to the ideals of peace and justice. Nor do the exponents of peace hold that peace should be established in violation of justice or could be maintained without security. Nor are the apostles of justice blind to the fact that justice could not be assured in a world of violence.

Membership in the League, as indeed civilization itself, as we have come to conceive it, implies love of justice, peace, and security. But, as I shall now endeavor to show, there are really three distinct attitudes of mind and three distinct national policies with respect to these three ideals.

Such a sweeping statement is of course more readily made than substantiated. But, although I can adduce in support of it here only a very small part of the evidence which all close observers of international relations constantly have before their eyes in Geneva, I believe it is susceptible of a demonstration as rigorous and as convincing as that of any unchallenged historical generalization.

I shall attempt this demonstration first by quoting some characteristic definitions of the League and of its main objects by authorized representatives of each of the three groups of nations which I have distinguished. I shall then examine their respective attitudes toward one of the most significant clauses of the Covenant,—article 10; one of the most impor-

tant of the League's efforts,—that tending toward a reduction of armaments; one of the most essential elements of the League's structure,—the Permanent Court of International Justice; and, finally, one of the most vital episodes in the existence of the League,—the Corfu incident.

The main purpose of the League, from the point of view of those States whose policy we have characterized by the motto "Justice first," was never more clearly and concisely stated than by Mr. van Karnebeek, the Minister for Foreign Affairs of the Netherlands. On taking the presidential chair, to which he had been elected by the second Assembly, on September 5, 1921, he ended his brief address of thanks with the following words:

> . . . Our task consists in the substitution for the régime of the balance of power, the organization of humanity in accordance with the laws of justice.

The same conception was expressed by Mr. Rodriguez, the Venezuelan representative, when he said in 1920, in the debate on the report of the Council to the first Assembly:

> . . . Venezuela adhered (to the Covenant) in the hope that . . . the League would eventually progress and develop like a living vigorous organism, the ideal of which should be based solely on justice. When I speak of perfect justice I am not expecting Utopia. I mean such a standard of justice as can be expected under present conditions. For justice is the essential basis of the Covenant.

Mr. Urrutia of Colombia showed that he belonged to the same school of thought when, in 1922, he spoke

of the League as "constituted for the very purpose of realizing the noblest ideals of justice and humanity and of perfecting the code of international law."

Likewise Mr. Motta of Switzerland, when at the first Assembly, addressing the Council, he expressed the hope that the treaties of peace would be executed in that "spirit of strict impartiality, serenity, and justice, which is the spirit of the League of Nations."

British delegates, defining the purpose of the League, while of course never repudiating the ideal of justice and often even referring to it, are wont to place the emphasis elsewhere, as the following quotations show:

. . . The primary function of the League of Nations is to prevent war and to preserve the world's peace by substituting some other method of settling international disputes. (N. W. Rowell, Canada, 1920.)

. . . The League of Nations was framed for the maintenance of peace, and the security and the better observance of international obligations, and I think you will agree, it is universally recognized, that one of the most important steps which could be taken to that end is the reduction of armaments to the minimum compatible with the maintenance of national security, and the discharge of national obligations. (H. A. L. Fisher, British Empire, 1920.)

. . . The great objective of the League of Nations, as I understand it, is to render war between the nations of the earth more difficult. The subsidiary objective is to endeavor to improve the general conditions of mankind throughout the world. (S. M. Bruce, Australia, 1921.)

That, in the eyes of the British, this goal of peace is to be reached by discussion and persuasion, more than by legal obligation or material compulsion, is well shown by the following quotation from a speech

by Lord Robert Cecil on the economic weapon of the League, delivered before the second Assembly, in 1921:

. . . It is a fundamental principle of the League that under no circumstances can any Member of the League be compelled by the Council or the Assembly to take any action except that which seems right to it. That is fundamental, otherwise we drift toward the position of a super-State, which I am quite sure no Member of the Assembly desires to see established.

As for the representatives of France and of her continental allies, the aims of peace and justice appear invariably and very naturally associated in their minds with that of security. On March 12, 1925, M. Paul Hymans, the Belgian member of the Council, in his reply to the British note repudiating the Geneva Protocol, which had just been read by Mr. Austen Chamberlain, declared: "Security is the dominant factor in Belgian public opinion and inspires the foreign policy of my country."

This is equally true of France, Poland, the Little Entente, and the Baltic States. "Renewed invasion is the danger, the peace treaties, enforced by the League, are the protection," such is the general sentiment in all these countries. As Mr. Léon Bourgeois declared at the first Assembly:

. . . Between the Treaty (of Versailles) and the Covenant there are a certain number of close and indispensable bonds. There are—I do not need to recall the fact—a large number of provisions under which the Treaty entrusts to the League of Nations the carrying out of some of the obligations prescribed in the Covenant. A correlation therefore exists between the obligations and the duties which arise from the Covenant and from those of the Treaty. But there

is more. Certain articles of the Covenant are, as it were, the direct expression of the will of the Signatory Powers at the moment when the Treaty was ratified. The insertion of the Covenant in the same diplomatic instrument as the Treaty is not merely a device of the drafters, it is the expression of a carefully-considered determination. It is important that these two diplomatic instruments, bound together by the same signatures, should retain in respect of each other the mutual relationship conferred upon them by their common signatories, and that the obligations which result therefrom should be carried out loyally and in their entirety.

The same idea was even more forcibly expressed in 1922 before the third Assembly by M. Askenazy, the Polish delegate, when he said:

. . . The Covenant of the League of Nations is indissolubly bound up with the Treaties of Peace. It exists and disappears with these treaties. The League of Nations—the present League of Nations, for I know no other—is the mainstay of this new order of things. It is itself one of the chief guarantees of this order. Such is the sense of article 10 of the Covenant, which must remain unchanged.

More briefly, and if one may say so, more brutally still, M. Spalaikovitch, representing the Serb-Croat-Slovene State, had, in 1921, ended a spirited speech before the second Assembly with the words:

. . . Gentlemen, the duty of the League of Nations is to strengthen peace and more especially the peace which is the outcome of the last war, and it is to this end that the efforts of all its members should be directed.

It would obviously be difficult to express sentiments more repugnant and more contrary to those of the former European neutrals. Already at the

first Assembly, M. Motta on behalf of Switzerland, for example, had declared:

> . . . The Covenant of the League of Nations is merely bound to the Treaty of Versailles by ties which I should describe as being exclusively or at least mainly external. The Treaty of Versailles as regards its main contents, is a Treaty which concerns only the parties signatory thereto.

And M. Loudon had added, on behalf of Holland:

> . . . It is evident that States which did not take part in the war remain absolutely outside the relations created by the Treaty of Peace.

It is not surprising that the same divergency of views should have prevailed as regards article 10 of the Covenant. We have already seen in our last lecture how diversely that article had been interpreted and rated by various States, according as they felt that it might guarantee them against attack or saddle them with undesired obligations. Whereas the "Security first" group were inclined to interpret it strictly and uncompromisingly to oppose its deletion or amendment, the others either placed upon it such an emollient construction as to make it practically meaningless or strove to suppress or modify its provisions.

Without recalling the facts I have already stated in this connection, I wish merely to quote from some of the observations made in 1923 in reply to a letter from the Secretary General of the League concerning article 10.

> Albania: . . . Article 10 constitutes the corner-stone of the Covenant and the very foundation of the League.
> Belgium: . . . Article 10 constitutes for the Belgian

Government one of the most valuable achievements of the new international order . . .

Greece: . . . Article 10 of the Covenant is one of the foundations of the League of Nations and constitutes one of the most essential guarantees for the world peace . . .

Roumania: . . . We consider that Article 10 of the Covenant of the League of Nations constitutes the most effective guarantee against all attempts at aggression with the object of modifying the territorial position established under the Treaties of Peace . . .

The most thoroughgoing defense of article 10 was characteristically presented by Poland which, placed between Germany and Russia, the two great European Powers still outside the League, naturally most keenly felt the need of protection. The Polish reply read in part:

. . . In ratifying the Covenant of the League of Nations each Parliament, legislature or representative body explicitly gave its approval in advance to the enforcement of measures which are the logical consequences of the obligations entered into by the Members of the League of Nations. . . . The Polish Government considers that the terms of article 10 constitute one of the fundamental principles of the Covenant of the League of Nations as at present constituted, and further, that the undertaking entered into mutually by all the Members of the League of Nations to respect and preserve their territorial integrity and political independence is one of the corner-stones on which the whole organization of the League of Nations rests. . . . The effect of abolishing stipulations of this type and scope would be completely to transform the character of the League and the outcome would be the revision of the entire Covenant, seeing that its various clauses are so closely related one to another that it is impossible to modify the

bearing of one without coincidently changing the bearing of another. . . .

France herself, as we have seen, reluctantly voted for the interpretative resolution proposed at the fourth Assembly, but only after declaring through her representative that article 10 was, in her eyes . . . "the pediment of the great temple of our international organization . . . our standard, our crest, the declaration of the new international law."

The attempt to promote disarmament which, as we have seen, has been pursued ever since 1920 up to the present, is another very useful touch-stone for determining the relative position of the various members of the League toward each other and toward the institution as a whole. We have seen in our last lecture how the Draft Treaty of Mutual Assistance was intended to promote the reduction of armaments by creating closer international solidarity and thereby greater international security.

Long before its final formulation this draft instrument gave rise to heated discussions between representatives of the two political tendencies whose child it was to be. On the one hand were the States which, having largely disarmed themselves, viewed with disfavor for the peace of the world and perhaps not altogether without anxiety for themselves the persistence of extensive armaments in the heart of Europe. On the other hand were the countries which, feeling threatened in the presence of neighbors whom they did not trust and in the absence of positive guarantees of mutual assistance, were not prepared to demobilize unless and until they had secured such guarantees.

The most insistent demand for disarmament during the first Assembly came from Great Britain and notably her Dominions, as well as from the Scandinavian States.

The first full debate on disarmament was opened at the first Assembly in 1920 by Mr. Branting, representative of Sweden, who, after quoting article 8 of the Covenant, declared:

. . . This article constitutes a new fact for the peoples. It is the first official affirmation that might shall not always reign, that militarism, that scourge of humanity, shall not remain master of the world, that the idea of disarmament, which has been cherished for so long, but which has had to remain a dream, will pass at no distant period from Utopia to reality. . . . It is important to set to work now, not only because militarism is barbarism, but also because it is more than ever necessary to reconstruct the world. We all know that this task will be impossible if we continue, as in the past, the system of armed peace.

Mr. Branting was followed by the British representative, Mr. Fisher, who, in the following words, cautiously but clearly, suggested that the incomplete disarmament of the late Central Empires could not justify the maintenance of undiminished armies by their former enemies:

. . . Europe is still in a state of unstable equilibrium. Large areas are still disturbed. Many Powers, possessing great actual or potential military strength, still stand outside the orbit of the League, and it is necessary that the military clauses of the Treaties of Peace should be executed in full, and that there should be some adequate security for their observation before the continent of Europe is restored to a full sense of mutual trust between nation and nation. Nevertheless, it would be the height of unreason to conclude

that because everything we desire cannot be obtained at once, therefore nothing is possible and nothing should be attempted.

Mr. Barnes (British Empire), Mr. Loudon (Netherlands), and Mr. Lange (Norway) also spoke in the same sense, urging the adoption by the Assembly of a recommendation to the Council,

> . . . to submit for the consideration of the Governments the acceptance of an undertaking not to exceed, for the first two financial years following the next financial year, the sum total of expenditure on the military, naval, and air services provided for in the latter budget, subject, however, to account being taken of the following reservations:
>
> (1) Any contributions of troops, war material, and money recommended by the League of Nations, with a view to the fulfilment of obligations imposed by article 16 of the Covenant or by Treaties registered by the League.
>
> (2) Exceptional conditions notified as such to the Council of the League of Nations. . . .

Even in this extremely timid and qualified form, the recommendation was opposed by the representative of France, M. Léon Bourgeois, who declared:

> . . . Our situation is indeed exceptional. . . . In the present state of Europe and the world, France has been given the task of enforcing the execution of Treaties to a great extent by her own military forces. It is she who bears the heaviest burdens in European territory in this respect. The troubled conditions of Europe and of nearer Asia are such that none of you would ask the Powers, whose task it is to watch over the security of Europe, to disarm themselves, abandoning the guard of the frontier of liberty (according to the well-known phrase) entrusted to Great Britain, to ourselves, and two or three other countries.

M. Poullet, the Belgian representative, although

for his part accepting the motion, likewise recalled that Belgium also was

> . . . at this moment in an exceptional position. We have received, it is true, some restitution, but as yet we have received neither reparation nor indemnity. On the other hand, the League of Nations is yet only in process of organization, and the executive forces which will one day carry out to the fullest extent these provisions are as yet lacking.

The recommendation was finally adopted by thirty votes, including those of the whole British Empire and of all the former European neutrals, against seven, including those of France, Greece, Poland, and Roumania.

Although the practical importance of the measure in question was entirely negligible, the debate and the division on it are of interest, as giving the first official indication of the disarmament policies of the various States members of the League.

The debate on disarmament was resumed at the second Assembly. As the following brief quotations show, the representatives of the British Empire and the delegates of the former European neutrals again insisted on the importance they attached to prompt action in this field:

> . . . I pass now to the last subject, on which I wish to say a few words to the Assembly, and on this one I rejoice—we all rejoice—that the League and the Government of the United States are heartily and entirely at one. I mean of course, the limitation of armaments. . . . I received specific instructions from the Government of South Africa to press this matter upon the attention of the Assembly, and in my last interview with General Smuts (with whom I am so proud to be associated in this work) he urged that this was

the greatest, perhaps the most important duty which the League of Nations had to discharge. (Lord Robert Cecil, South Africa.)

. . . It is my duty to say a few words on this question (of disarmament) because my government attaches more importance to it than to any other question that can come before the League of Nations Assembly. . . . During the year that has gone, very little has happened. Now, in my opinion, that year that has been wasted is, if not disastrous, certainly very serious. (Captain Bruce, Australia.)

. . . To those who always remember, and who are always reminding others, that national safety requires a certain amount of armaments, that reduction should not be carried too far, I would answer that, though there may be much truth in this view, we must also take into account the fact that the security of peoples by arms can never be anything but a relative security. History is there to show us that even the most powerful empires may find themselves in such a situation that the greatest precautions become of no avail. We must never forget that there is a security greater than the security provided by armaments, the security which humanity can obtain by following the path leading to the disappearance of war. (Mr. Branting, Sweden.)

On the other hand the French delegate, M. Noblemaire, while eloquently professing the most conciliatory sentiments, again in the following words felt obliged to defend his country's traditional position of armed security:

. . . Our pacifism is not systematically deaf to the rumors of war, which can still be heard in too many quarters of the globe. . . . We are all agreed that we are advancing towards the same star, but you will forgive me if I remind you of my countryman, the charming writer of fables who related the story of the astrologer who fell into the well. Frankly we consider as one of the worst risks

of war that type of exaggerated pacifism which is systematically deaf and blind to the harsh realities of the present day, and would shepherd its tender bleating sheep, not to the gentle Arcadia which they imagine in their generous and foolish simplicity, but straight to the slaughter-house instead. . . . We cannot regard our guarantees—which, I would have you note, are guarantees for the whole of Europe—we cannot regard them as reliable and complete . . . until the day comes when the German Republic is firmly established, and has attained to a régime of stable democratic institutions, thus assuring the final triumph in Germany of the principles of justice, honor and liberty, which are the ideals of the League of Nations.

The third Assembly in 1922 found itself confronted with a general plan, prepared largely by Lord Robert Cecil, for combining disarmament with security, in the hope of uniting at least two of the three groups of States we have distinguished. The discussion of the fundamental principles of this plan clearly brought out the main features of the three respective policies. For France and her continental allies, it was indispensable to work out a reliable system of mutual guarantees and thus to establish security first. For the British group, general disarmament was a necessary condition of peace and, if that end could be attained only by means of guarantees of mutual assistance, well, then, however unpleasant, it might be well reluctantly to consider whether the end did not sanctify the unholy means! As for the former European neutrals, as well as for the Latin Americans, their strong and general desire for disarmament was equalled by their resolute aversion to all entanglements and guarantees, especially if not quite general in character.

The French delegate, M. de Jouvenel, made his position clear when he declared:

. . . When I recall the recent invasion of Belgium, and the still more recent invasion of Poland, when I realize that there are at this moment in Europe two great Powers whose alliance is the chief danger to the peace of Europe . . . and being convinced that humanity must first reinforce the most seriously threatened points, I, for my part, believe that individual treaties must precede the general treaty. . . . I think the great Western nations should conclude individual treaties among themselves. By such individual treaties these great nations would assume obligations not only towards one another, but also and above all, towards the small and weak nations. They would give their guarantee to the most threatened frontiers. They would thus make possible a reduction of armaments by the nations which most need them, and have the greatest inducement to arm. . . . During the war we acted as the advance guard of civilization, but we know that our victory was only possible because we were on the side of right, because one by one the civilized nations took their places at our side, and at last one day, we heard the cry, sublime in its heroism and its gratitude: "Lafayette, we are here!" Conscious of having constituted the first international force enlisted in the service of peace, mounting guard round the treaties, we await relief, and declare that the cause of peace will be definitively won in our eyes when mankind, by bringing us the Treaty of Mutual Guarantee, will say to us in its turn: "France, we are here!"

Lord Robert Cecil showed in the following words that he was not blind to the difficulties that would have to be overcome before his countrymen accepted his idea of mutual guarantee:

. . . Guarantee and reduction of armament must go hand in hand. I do not mean to say that you will not, in

some cases, be able to obtain reduction of armaments without a guarantee; so much the better where that can be done. . . . But, speaking generally, you will not be able to get a general reduction of armaments without some alternative security such as a guarantee. Therefore you cannot hope for your general reduction without guarantee. But it is equally true that you cannot ask for a guarantee without reduction; for some nations to undertake such a guarantee as this would be a very heavy responsibility. There may be some nations who will hesitate to undertake it. I hope that they will get over their hesitation. . . . You have got to pay some price for general disarmament. If you want peace, you must have disarmament, and if you want disarmament you must be ready to pay a price in order to obtain it. You can get nothing for nothing in this world, and if you desire disarmament you must be prepared to give a guarantee.

Sir Joseph Cook, delegate from Australia, turning toward the representatives of the first group, sought to convince them of the possibility of imitating his far-away country, by saying:

. . . I am here to tell you to-day that in our budget this year, which is just now under the consideration of our Assembly, we have reduced our Defence Vote by over 25 per cent of the total. We are doing that meantime. We are taking some little risks ourselves. Will nobody else take just a little? Why not try the experiment? I venture to say that if it is tried a little further in Europe the results will be altogether good.

Finally, the following declarations by the Swedish and Dutch representatives clearly put the case for the States which favor unconditional reduction of armaments:

. . . I feel it my duty to emphasize that in many countries—including my own which is a sincere advocate of

disarmament (of which it has already given palpable proofs)—public opinion is not in favor of this connection which is to be established between disarmament and guarantees. . . . I know that in the Netherlands regret will be felt that the question of the reduction of armaments, which in the Covenant, in the first and second Assemblies and at Washington, as regards naval forces, was treated independently of any idea of mutual guarantee, should now be connected in the mind of the Assembly with the principle of guarantees. (M. Loudon, Netherlands.)

. . . "I have not concealed my hesitation and even my doubts—shared I may add almost unanimously by public opinion in my country—with regard to the desirability of making a general reduction of armaments depend upon the possibility of establishing a general treaty of mutual guarantee, apart from the reasonably precise and indisputably valuable guarantees embodied in the Covenant. (Mr. Branting, Sweden.)

It would be unnecessarily fastidious and would lead to mere reiteration, were I further, step by step, to pursue my demonstration as to the three policies in the field of disarmament. As is well known, the Cecil plan resulted in the Draft Treaty of Mutual Assistance, which, having been rejected, led to the Geneva Protocol, in whose stead the present so-called Five Power Security Pact is now being discussed.

Throughout this evolution, which had its origin at the Peace Conference itself, it is easy to follow the persistent demand of France for security, for herself as well as for her allies. At first the offer of disarmament was the bait. Then, that having proved insufficient as an attraction to the two other groups of States, arbitration was added as in the Protocol. To-day, thanks to the generally felt neces-

sity of doing something to appease the anxiety of France and to stabilize existing conditions in Europe, M. Briand, the French Foreign Minister, is apparently succeeding in the realization of the essential purpose of his country, the obtaining of guaranteed security. It would even seem that in his supreme cleverness he is achieving this great object, without granting any positive compensation in the shape of promises of disarmament to the chief guarantor, Great Britain.

In thus sketching the evolution of French policy, which roughly coincided with that of Poland, the Little Entente, and Belgium, I do not mean to imply that there was a lack of sincerity in the professed readiness, under the Treaty of Mutual Assistance, to reduce armaments and, under the Protocol, to accept arbitration. I am indeed convinced of the contrary, but I claim that the need for, and desire of security dominated the whole policy.

The British Empire rejected first the Treaty and then the Protocol for reasons which, although somewhat differently formulated, were at bottom much the same.

By a letter to the Secretary General of the League, dated July 5, 1924, and signed by Mr. Ramsay MacDonald, the British government announced that it could not recommend the adoption of the draft Treaty. It began by stating that there was "no question to which His Majesty's Government attach greater importance than the reduction or limitation of armaments, for they recognize that . . . the maintenance of peace, which is the principal object of the League of Nations" required the reduction of national armaments. But they denied that the guar-

antees contained in the proposed treaty were "sufficient to justify a State in reducing its armaments" and especially they held that "the obligations to be undertaken toward other States" were not "of a nature that the nations of the world can conscientiously engage to carry them out."

On March 12, 1925, Mr. Austen Chamberlain, Mr. MacDonald's successor as Secretary of State for Foreign Affairs, read out a statement to the Council of the League in which it was explained why "His Majesty's present advisers, after discussing the subject with the self-governing Dominions and India, see insuperable objections to signing and ratifying the Protocol in its present shape." Although "the declared object of the Protocol was to facilitate disarmament," a "most desirable end," the authors of the British note place no faith in its suitability for that purpose. They then proceed "to enquire how far the change in the Covenant effected by the Protocol is likely to increase the responsibilities already undertaken by the States Members of the League." Their conclusions on this point, very clearly implied although not explicitly stated, are that this increase would be as appreciable as it appeared undesirable, it being "surely . . . most unwise to add to the liabilities already incurred without taking stock of the degree to which the machinery of the Covenant has been already weakened by the non-membership of certain great States." Having analyzed the provisions of the Protocol dealing with the proposed repression of the aggressor, they declare:

> The fresh emphasis laid upon sanctions, the new occasions discovered for their employment, the elaboration of military procedure, insensibly suggest the idea that the

vital business of the League is not so much to promote friendly coöperation and reasoned harmony in the management of international affairs as to preserve peace by organizing war.

To be sure there are differences in the two statements of British policy we have just recalled, notably as concerns arbitration. But fundamentally the head of the Labor government in 1924 and his Conservative successor in 1925 are in complete agreement as to the undesirability of stiffening or supplementing the provisions of the Covenant with respect to those "sanctions," which for France and her allies are the necessary conditions of security.

The attitude of the third group of nations toward the Draft Treaty of Mutual Assistance and toward the Protocol was in perfect conformity with their general policy, as we have sought to define it. The States which place justice first in the order of importance in international affairs are naturally in favor of a limitation of armaments, as excessive national armaments tend to the establishment of hegemonies and alliances and thereby constitute a peril to justice, at least as grave as to peace. On the other hand, they deprecate sanctions and guarantees, especially before the general acceptance of compulsory arbitration, because, although they may be eventually prepared to enforce justice, they absolutely refuse to contribute to the enforcement of peace on any other basis than that of justice.

These principles led them to regard the draft Treaty with ill-disguised distrust. Of the twenty-five States which, in reply to a request from the Council, communicated their views on that instrument in writing, four—Holland, Norway, Spain, and Swe-

den—were former European neutrals and one—Uruguay—a Latin American republic. The general silence of South America was in itself a very eloquent reply. It obviously indicated that, as Uruguay expressly explained, the draft in question was looked upon as a foreign product, framed with special reference to the European situation, and that its application to America was neither desired nor indeed possible. As for the former European neutrals, they with one accord, rejected it as useless and dangerous. In their eyes it was useless as a means of promoting disarmament, and dangerous as establishing a system of ill-defined mutual obligations, ominously recalling the alliances of the past, which might serve to generalize war, at least as readily as to prevent it.

The Dutch reply was particularly firm and clear in its criticism of the draft. It concluded as follows:

> Once the League becomes universal, and once the States are genuinely and fully prepared to comply with the provisions and spirit of the Covenant, more particularly in regard to the peaceful consideration and settlement of disputes likely to lead to a rupture, that atmosphere of international security and confidence will be created which is both the most powerful argument for the general reduction of armaments, and, at the same time, the essential condition thereof. Her Majesty's Government, which was among the first to adopt as obligatory the jurisdiction of the Permanent Court of International Justice, will constantly endeavor to strengthen the legal guarantees desired by the League of Nations and to give that body the universal character which is indispensable to its efficacy. The Government cannot, however, support proposals which would establish an organization resting on might rather than on right, thus resulting in the creation of political groups on

a military basis and, in consequence, in the disruption of the international commonwealth, instead of promoting the ideal of unity and general collaboration, which is one of the fundamental principles of the League of Nations.

With respect to the Draft Treaty the attitude of the third group of Powers was therefore decidedly unfavorable. With respect to the Protocol, it was very much more favorable, but somewhat less unanimously decided.

The clauses regarding compulsory arbitration, the outlawry of aggressive war, and effective disarmament met with their unqualified approval. Their satisfaction on this score was so genuine and so deep, that they were strongly inclined to adhere to the Protocol as a whole, in spite of their lingering reluctance to accept the stringent obligations it imposed in the matter of collective coercive action against aggressors. The uneasiness about these latter provisions was, of course, more acute among the former European neutrals than among the Latin American States, for whom they had much less practical significance. The respective attitudes of these two subdivisions of the third group of States is well illustrated by the declarations made at the Council in March, 1925, by their representatives, Mr. Unden of Sweden, Mr. Quinones de Leon of Spain, Mr. de Mello-Franco of Brazil, and Mr. Guani of Uruguay. I shall make an ample quotation from the statements of the two latter as they strike me as highly significant and of very particular interest for an American audience.

The Spanish representative said that his country had signed the Protocol "although Spain had no immediate direct interest at stake, but was impelled

only by considerations connected with the common interests of Europe and of the world, and by a great feeling of solidarity." The Swedish representative was content briefly to inform the Council that his government attached "the greatest importance to the work which was done in Geneva last autumn, and especially to the introduction of the principle of compulsory arbitration into the framework of the Covenant," but that it was not yet prepared to give a final opinion on the Protocol before subjecting it to further study.

The two South American members of the Council on the other hand were very much more outspoken. Mr. de Mello-Franco said:

> . . . Brazil, which has always marched in the vanguard of those States which have not contented themselves with adopting mere platonic resolutions in regard to arbitration and which has inserted the principle of compulsory arbitration in its political constitution, a principle which it has very largely applied in practice, Brazil . . . has voted for the Protocol and has signed it. We were persuaded that in doing so . . . we were giving our help to the establishment of a universal system of which the foundation had already been firmly laid in America.
>
> I should like to remind the Council that sixteen American nations, among which is to be found the United States, signed in May, 1923, a Continental Convention for the peaceful settlement of any international disputes which might arise between American States. Assuredly the resolutions of the committees of investigation set up by the Convention will not have the value nor the force of judicial sentences or arbitral awards. They will, however, prove useful in preventing the outbreak of hostilities and in giving an opportunity, thanks to the calming influence of time, for reflection to prevail, for peaceful feelings to re-awaken and

for conciliatory measures to be taken by States with a view to maintaining peace.

Mr. Guani made the following, equally categorical, statement:

. . . The Government of Uruguay regards the question of the Protocol as one which affects the establishment of peace in the whole world. Incidentally I would point out that, for my country, as for the majority of South American countries, the problem does not arise in its political aspects, as is the case upon the European continent, but purely and simply in a moral aspect. It has been possible to realize a condition of peace among ourselves, thanks to our historical traditions and to the kinship of the South American races. This harmony has enabled us to exclude any germ of hatred from our international relations, but the moral factor has doubtless contributed most effectively to the creation of the sentiment of peace which prevails among the States of South America. This sentiment has been further strengthened and consolidated to a very great extent by the organization of an international legal system with a procedure of conciliation and arbitration, which render extremely remote the possibility of a resort to force in the settlement of any international conflict.

Latin America has co-operated, and will continue to co-operate, with loyalty and enthusiasm in the work of the League of Nations, in the firm hope of seeing the principles of solidarity and international justice, to which I have just alluded, become universal. Such a hope explains our adherence to the Protocol . . . which contains, as an essential basis for its various provisions, the principle of compulsory arbitration which no one in South America to-day would think of questioning.

Whatever may be the modifications of form or of application which the great European countries deem it desirable to introduce into the scheme of the Fifth Assembly for various reasons, my country cannot cease to believe that

the idea of settling international conflicts by means of international justice will sooner or later prevail throughout the world as the only system calculated to eliminate for ever the wickedness of resorting to war, and, finally, to consolidate friendship among the nations.

The League of Nations must be the proper instrument to extend and apply these ideas. As has already been said, it is under the auspices of this great organization that international life must develop along the lines of an effective and progressive respect for legal order.

My country was among the first to sign the Arbitration Convention of the Hague. It also adhered to the Covenant of the League of Nations, especially in view of the creation of a new international order, founded on the peaceful cooperation of all nations. Finally, it has adhered to article 36 of the Statute of the Permanent Court of International Justice, thereby accepting the compulsory jurisdiction of the Court. For these reasons, my Government desires to remain faithful to its traditions and to the sentiments now prevailing in the public opinion of the country. It desires to declare once more that the Protocol of Geneva, even though its articles are submitted to modification, represents in its essential principle the most complete international system of organized peace which will be at the disposal of the peoples in the future to establish their security, effect their material and moral disarmament and thus bring in a new era of peace and happiness for mankind.

The dominant policies of the three groups of States are in no way more clearly manifested than by the varying importance they attach to the institution of the Permanent Court of International Justice and by their attitude toward the problem of its compulsory jurisdiction. Whereas, from the very origin of the League, the nations which place justice first on their international program hailed the World Tribunal as the greatest conquest of the new

era and regarded its compulsory jurisdiction as the necessary foundation of the new order, the two other groups were as a rule content to welcome the Court as a useful auxiliary engine, to the security-creating and peace-maintaining machine they had devised.

When, in March, 1919, the former neutrals were invited to appear before the League of Nations commission of the Peace Conference, they one and all insisted on the necessity and urgency of setting up an independent and impartial court and of endowing it with far-reaching jurisdiction. We have it on the authority of Professor Philip Baker,[1] at that time private secretary to Lord Robert Cecil who presided over the meeting, that their insistence produced a strong impression on the minds of the framers of the Covenant and was not without effect on their decisions.

Article 14, as amended after the conference with the neutrals, now reads as follows:

> The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

The Council, at its second meeting, in February, 1920, appointed a committee of ten jurists of international repute to draft a scheme for the constitution of the Court. This committee, of which Mr.

[1] See his study on *The Making of the Covenant* in *Les Origines et l'Oeuvre de la Société des Nations,* Vol. II, p. 50, Copenhagen, 1924.

Elihu Root was a member, proposed a plan which the Council, after amending it on some few, but very important points, submitted to the first Assembly. The committee had incorporated into its draft statute provisions for the compulsory jurisdiction of the Court in all justiciable matters. The Council, in accordance with the wishes expressed on behalf of Great Britain, Italy, and France modified the draft on this point, which accordingly gave rise to a most memorable debate at the Assembly.

Of the nineteen orators who took part in it, fourteen more or less vehemently deplored that the principle of compulsory jurisdiction had been abandoned. They were, in order of speech, the representatives of Norway, Holland, Belgium, Uruguay, Brazil, Panama, Yugoslavia, Colombia, China, Peru, Portugal, Cuba, Bolivia, and Switzerland. The representatives of France, Great Britain, and Roumania on the other hand sought to justify the attitude of the Council, while the representatives of Italy and Greece were content to explain it.

In no other debate at the Assembly did the Latin American States take so strong a stand. Although most of the speeches delivered on this occasion would deserve to be quoted in full, I must limit myself to citing a few brief extracts from two of the most notable of these utterances. The most convinced and the most passionate defender of the principle of compulsory jurisdiction was Mr. Raoul Fernandes of Brazil, who had been a Member of the Committee of Jurists. The following passages of the speech he delivered on December 13, 1920, will show his personal feelings perhaps more than the general position of his country, but are none the less interesting

as the expression of a Latin American state of mind:

I cannot associate myself with the enthusiastic words which you have just heard. I was once enthusiastic; to-day I am barely confident. I am waiting.

At the Hague, a resolution was passed concerning compulsory recourse to international justice on a very limited number of disputes. I should like to state that Mr. Root, who was entirely outside the political considerations which influence the League of Nations, since his State is not a member of the League, defended this solution with an energy and a clear-sightedness which won unanimous approval. He told us that it was time to take this last step for which we had been waiting so long, that the world was ripe to settle a certain class of disputes by legal means, that this was a propitious opportunity. If, as I think, Mr. Root expressed the prevailing opinion in his country, this would be one more reason to appeal with all our hearts to America. May she come among us to sweep away by her vigorous breath the obsolete prejudices which are at present preventing the realization of international justice. . . .

Can any conflict be more serious than a conflict involving rights? When interests only are at stake, irritation and displeasure are aroused, but, generally, with individuals as with nations, that is all. On the contrary, when it is a question of rights, men fly into a passion; they rebel; they become exasperated; and this state of mind leads to violent catastrophes. . . . It is paradoxical that a League whose object is the maintenance of peace should neglect to remove the cause of a whole category of disputes which are the most dangerous, and this at the moment when the means of preventing them has been discovered from the age-long experience of peoples. . . .

We have hastily organized the economic weapon of the blockade. This is a weapon of attack, a terrible and cruel one, and besides, it is not an equitable weapon when it is

wielded by the League of Nations, which, as is readily seen, cannot turn it easily against all its members. At the same time we are going to abandon justice, an instrument of the peace-maker, which is conciliatory and impartial.

Mr. Urrutia, the representative of Colombia, also frankly expressed his disappointment at the failure of the great Powers immediately to accept the principle of compulsory arbitration, but he ended his speech on a more hopeful tone. He said:

. . . As appears from the declarations made by certain delegates, the Statute of the Court of Justice does not satisfy the aspirations, with regard to the competence of that tribunal, of several delegations, especially those of the majority of American States who would have been glad if definite and material progress had been made in this respect.

The principle of compulsory arbitration is not only a principle of international justice; it is a democratic principle, since it is the logical result of the legal equality of States. It is deeply rooted in the history, traditions and institutions of the American peoples. . . . Since winning their political liberty, these States have not ceased to carry on a stubborn campaign in favor of compulsory arbitration. . . .

It really seems as if a unique opportunity has been lost of consecrating here the principles of compulsory jurisdiction, without any distinction whatsoever, both for great and small Powers. This would have made a tremendous effect on modern history. . . .

I will conclude by saying that, in spite of all my regrets, I am forced to acknowledge that the Statute of the International Court of Justice marks a notable progress in the life of the world. We look upon it as a first step, which will be followed by many others, and we hope soon to see this League of Nations, which is so dear to us, vitalized by the

spirit of liberty and democracy which reigns to-day throughout the world.

The former European neutrals, while also deploring the missed opportunity for the general and immediate introduction of the principle of compulsory arbitration, were as a rule so happy to see a permanent international Court set up that their satisfaction appreciably exceeded their regret.

Everyone knew that Great Britain and France, by far the most influential members of the League, were chiefly responsible for the deletion of the clause concerning the compulsory jurisdiction of the Court. The task of their representatives, Mr. Balfour and M. Léon Bourgeois, in defending this attitude was not easy. They undertook it,—the latter particularly, whose reputation in international affairs was based mainly on his traditional advocacy of compulsory arbitration,—in what seemed to be a rather apologetic spirit. Realizing that the position of their countries could be justified only by a lack of confidence in the Court or by the desire to be free to do what the Court might consider wrong, they insisted in very similar terms on the fact that confidence could only be won and not imposed.

Mr. Balfour ended his brief speech by declaring:

> . . . More and more you will find that as this Court gains the public confidence, the confidence of nations in all parts of the earth, more and more classes of cases will be brought within its jurisdiction; more and more readily will the various countries of the world be glad to put their disputes before it, whereas if in a spirit too hasty and too impetuous you try and force into this mould, as yet imperfectly framed, the whole fabric of what you conceive to be a completed and perfect system, the result will be that the

mould itself will break under the stress of new circumstances and changing conditions. So far from having served the interests of international justice, you will have inflicted what may prove to be a fatal blow upon the greatest instrument which the world has ever yet been able to contrive for seeing that international justice is carried out.

A moment later M. Bourgeois added:

Behind this problem there is a question of confidence in the higher jurisdiction, and this confidence cannot be imposed any more than credit can be imposed. This confidence arises from the observation of events, from experience, and from the example given by the Court of the clearness, loftiness, and impartiality of its decisions. Many will wait to see how the Court will increase in proportion as this experience develops. This is the method of experience, a method of arranging our affairs which does not impel people who have not sufficiently reflected on the conditions of their consent to regret having given their consent. It is a method implying confidence in the experience of the States, in their wisdom, and, at the same time, in the wisdom of the Court itself.

To-day the Court has already done much to win the confidence of public opinion. It is very gratifying and encouraging to note that the policy of both France and Great Britain seems to be tending toward the acceptance of the principle of compulsory arbitration. France has conditionally signed, although not yet ratified, the optional clause of the Court Statute. And Lord Balfour, speaking in the House of Lords on behalf of the British government, on the Security Pact, has quite recently made a statement on the value of arbitration, which seems to indicate a significant evolution of British policy in this respect.

However, at the present moment, although thirty-seven States have adhered to the Statute of the Court, its jurisdiction in justiciable cases is as yet definitively recognized as compulsory by fifteen States only. Of these, five,—Denmark, Holland, Norway, Sweden, and Switzerland,—are former European neutrals; three,—Uruguay, Brazil, and Haiti, —are Latin American republics; two,—Austria and Bulgaria,—are former enemies of the Allies; three, —Esthonia, Finland, and Lithuania,—are new States; and two,—Portugal and China,—belong to what one might without discourtesy call the minor victors of 1918. According to our classification therefore, two-thirds of the States which have committed themselves to the principle of compulsory arbitration of all justiciable matters belong to the third group.

Of course, it must be realized that a large Power deserves much more credit than a small one for accepting this principle, as justice, which is always a protection for the weak, may be a hindrance for the strong. However, there can be no better test of sincerity as to that love of justice and peace, which all politicians and all States like to proclaim, than their stand on the matter of the Court and of its jurisdiction.

One's attitude toward the League of Nations as a whole may be held to be a question of political opportunism. One's attitude toward the Court, once granted the independence, impartiality, and competence of its members, is clearly a matter of principle.

The general principles which guided the various nations of the League in their definitions of its objects, in their interpretations of article 10, in their

attempts to promote the limitation of armaments, and in their conceptions of the importance and of the jurisdiction of the Permanent Court of International Justice, were put to a practical test on the occasion of the conflict which broke out between Italy and Greece in the autumn of 1923.

The murder of an Italian officer on Greek soil and the consequent bombardment and occupation by Italian forces of the Greek Island of Corfu took place on the eve of the fourth Assembly. I shall not endeavor even to summarize the case nor to describe the complicated procedure followed by the three international bodies,—the Conference of Ambassadors, the Council, and the Assembly of the League,—which all considered the unfortunate incident and its consequences. My purpose here is merely to illustrate the attitude adopted by various nations during the crisis by quoting some characteristic declarations to which it gave rise in the Assembly.

To appreciate the significance of these declarations it is sufficient to recall the one great fact which dominated the whole situation. When the fourth Assembly met, its members were under the overpowering impression of the tragic event which had taken place: a State member of the League had, under great provocation, it is true, resorted to violence against one of its fellow-members, just as if the Covenant had never been drafted and as if the League did not exist. That, still more than the individual outrage, was the deep and real cause of the general consternation.

When questioned before the Council, the representative of this State at first declined its competence and throughout refused to allow the estab-

lished procedure for the peaceful settlement of international disputes to follow its normal course. After the conflict had been terminated without further bloodshed, but clearly at the expense of justice, the State in question even opposed the proposal to submit the general legal questions raised by its action to the theoretical and retrospective examination of the Court. The most it would concede was the study of these questions by jurists appointed by the governments represented on the Council and to this a majority of the members of the Council reluctantly consented.

That was the position when the Assembly, whose members had feverishly followed the events from day to day for over three weeks in Geneva, were finally, on September 28, 1923, given the opportunity of publicly expressing their feelings about them. In the debate which took place on this occasion, eleven orators spoke, after Viscount Ishii, as acting chairman of the Council, had announced its final decision. Of these eleven speakers, four represented former European neutrals, four were representatives of the British Empire, one was a South American, one a Persian, and one a Finn.

The silence of France, the leading Power of the European continent, was in itself significant. Her representative on the Council had struggled for weeks, not so much to secure the respect of the provisions of the Covenant as to avoid, at almost any cost, further international complications. To the government of M. Poincaré, who at that time was still in full military occupation of the Ruhr, Italy's action was not primarily a challenge to the authority of the League, but a troublesome diplomatic inci-

dent. This incident was to be considered from the point of view of French interests, which were opposed to any general disturbance and particularly to any change in the *status quo* in the Adriatic. The representative of Great Britain happened to be Lord Robert Cecil, one of the principal founders of the League. At the Council he had done all in his power to obtain justice for Greece and to protect the prestige of the League. Not fully supported by France, nor perhaps by his own government, he had been obliged reluctantly to accept the solution, which, however imperfect, was certainly far better than none. The following words, which he used before the Assembly to express his opinion on the reference of certain of the legal points to a committee of jurists rather than to the Court, may be taken to sum up his view of the whole affair:

> . . . Well, in this world you cannot always get what you want; sometimes you must be content with what you can get.

The Maharajah of Nawanager, who closed the debate, went still further in the direction of contented resignation when he briefly declared:

> . . . The Indian delegation is much gratified to express its full approbation of the decision of the Council which it considers both conciliatory and wise and as worthy of the dignity of the League of Nations.

It was left to the other speakers to express the indignant sorrow of all the sincere and far-sighted friends of the League at its failure to protect its fundamental law, a sorrow that was alleviated but not dispelled by the consolation that its action had

effectively contributed to avert war, if not injustice. This feeling was expressed with particular force by Professor Gilbert Murray, Mr. Branting, and Dr. Nansen, and concurred in with more moderation by the representatives of Persia, Finland, Denmark, Holland, Ireland, and Colombia.

Professor Murray, speaking perhaps more as one of the leaders of the British League of Nations Union than as representative of South Africa, declared:

> . . . I think that it is well to bear in mind the great danger there is in referring any essentially judicial question to an essentially political body and in having a question decided not on grounds that are judicial but on grounds of political expediency. Experience has shown us how grave the matter is. As to the decision of the Council of Ambassadors, I have only to say that I thank Heaven that this League bears no part nor lot in the responsibility for that decision. I only wish that I could add that no shred of the responsibility lay on the shoulders of the British Empire.

Mr. Branting, who throughout the discussion on the Council had been the undaunted champion of justice, summed up his estimate of the case in the closing words of his brief speech before the Assembly as follows:

> . . . The maintenance of peace is, it is true, the object of the League of Nations, but a peace which is not founded on justice contains within itself the seeds of future conflicts.

As for Dr. Nansen, whose courage, energy, and manly frankness have won him the affectionate veneration of all justice-loving friends of the League in

the course of the first five Assemblies, he declared, in the course of his passionate speech on this occasion:

> . . . In the sanctity of the Covenant and in the rule of right lies the whole future of the League of Nations. We have heard that the late war was carried on to secure the sanctity of treaties. Let us hope that that goal will be attained. It is only by the loyal application of the terms of the solemn Covenant which we have taken that we can safeguard the vital interests of each of our nations and of humanity as a whole, and that we can safeguard the honor of our governments and our peoples, whether they be great or small.

Although almost all the Nations of the League may be said to fall within one of the three groups we have sought to distinguish, there are some exceptions, of which I will mention but the two most important.

Italy does not come into any of our categories because neither security, nor peace, nor justice can be held to characterize the ideals of her present government in the field of foreign affairs. With the first of our groups, Italy has in common a robust belief in force and a corresponding distrust of abstract political ideas and principles. With the second, a sincere desire for peace and a preference for political rather than judicial methods in international affairs. With the third group, Italy has perhaps least in common, except that her will to expand, based on the disproportion between her teeming population and her relatively small and poor territory, has made her evolve a novel political philosophy of justice. This biological conception of international ethics, according to which needs in the last resort determine

rights, might usefully contribute to the necessary strengthening of the provisions of the Covenant dealing with the peaceful revision of treaties.

However, for that purpose the present régime in Italy would have to be more favorable to the League and to its general ideals than it naturally can be under its present leader. For it is obvious that nothing could be further removed from the Wilsonian democratic liberalism, of which the League of Nations was born, than the fascism of Signor Mussolini.

The other great Power which I find it impossible to place in any of our three groups is Japan. Although I have been very pleasantly associated with several Japanese in Geneva and although I have often had occasion to admire the remarkable and sedulously vigilant conscientiousness with which the Japanese in the League represented their country, I do not feel that I know, nor that I understand the Japanese. Never having visited their country, I can judge them only by what they say, and they say uncommonly little!

The reticence of the Japanese, which is certainly their chief characteristic abroad, is open to very different interpretations. Some see in it the evidence of extreme profundity and possible evil-mindedness. As crimes are wont to be prepared and perpetrated in the silence of the night, so, some seem to think, the sinister designs of Japan are being slowly brought to their fatal consummation under the cover of the night of silence. My own surmise,—and I can only give it as such, for what it may be worth,—is entirely different.

I am struck with the extreme difficulty which all

Japanese experience in learning and in speaking any of our Western languages. This circumstance, as well as their moral isolation as representatives in the West of the sole great Power of the East, gives them a feeling of unfamiliarity and insecurity which, with their innate sense of dignity, they conceal behind the screen of reticence. Not having yet quite overcome their surprise and perhaps their dismay at the curious discrepancy which they note between our righteous declarations of altruistic virtue and our actual, narrowly selfish conduct, which may be seen at its worst in the field of foreign affairs, they are content to observe and to reflect in silence.

In my humble and uncertain opinion, therefore, the reputation for exceptional wisdom of the Japanese is much more due to their silence, than their silence to any uncanny wisdom. They are wise enough to perceive that in their position reticence is the best safeguard against the accidents of indiscretion, perhaps also the only bulwark protecting their reputation of unusual sagacity, and—who knows?—the sole means of reconciling sincerity and politeness, when they consider the beauties of Western civilization.

In the League, their attitude has usually been reserved and sometimes extremely helpful, thanks to their impartiality and disinterestedness with respect to the quarrels of Europe. It has invariably been conciliatory, patient, and courteous, even when their national interests were seriously at stake and appeared directly jeopardized, as in the matter of the open door in C mandated areas or in the domestic jurisdiction clause of the Geneva Protocol.

Such, all too hastily sketched, appear to me to be the dominant policies of the Nations within the

League. Of the three great nations still outside, I shall say but a brief word in conclusion.

Bolshevist Russia has been consistently hostile to the League and impertinent to the point of provocation. From whatever angle one considers her domestic policy of violent and cruel tyranny and her foreign policy of open or hidden revolutionary interference in the affairs of other countries, I fail to see how one can escape the conclusion that Russia is at present the scourge of Europe and of the world. Possibly her unconscious historical mission may be to unite civilization against her and thereby to supply the League of Nations with that element of menace from without which has always been the great consolidating influence of all successful social organizations of the past.

As for Germany, she and the League have been engaged in a singular game of hide and seek ever since the negotiation of the Treaty of Versailles. At first, Germany demanded the right to join, whilst France and her continental allies would not hear of it. There followed a period of mutual sulky disaffection. Then the opposition of France gradually relaxed until the point was reached where France agreed to Germany's request for a permanent seat on the Council in case she should decide to join the League. To-day France is insistently demanding that Germany should adhere to the Covenant, as a condition prior to all other mutual agreements. It would seem that, if the chancelleries are spending as busy and as profitable a summer at Paris, Berlin, and London, as we are here at Williamstown, the game of hide and seek might soon come to an end

by Germany's coming and being admitted into the fold at Geneva in September. It was certainly a great joy to all the friends of the League to learn from Mr. Castle's very significant statement, made before the Institute, that such an event would be viewed with favor at Washington.

If and when Germany becomes a member of the League of Nations a new era will begin, not only for the League, but for Europe, and for the world as a whole. So far the League has developed mainly on the basis of Franco-British coöperation, in the spirit of an enlarged and pacific interallied organization. What it will become when it will comprise the *Reich* and when a representative of Germany on the Council, by reason of the rule of unanimity, will be in a position to veto any important decision, the future alone can tell. One thing is certain, however: it will be a very different organization, more difficult to run no doubt, but more important and more effective still as an agency of international coöperation and peace.

As for the attitude of the United States toward the League, that is indeed an interesting topic about which a European may hope to learn much in America and particularly in Williamstown, but about which he himself should perhaps better be as reticent as a Japanese! Although I do not pretend to the wisdom of our Far Eastern friends, I shall not say much.

May I just be allowed to quote a short passage from the speech delivered by the President of Switzerland on opening the first Assembly, on November 15, 1920?

. . . The country which is a world in itself and is blessed with all the riches of the earth—the glorious democracy which has absorbed members of all races and given them a common language and Government—the people which is influenced by the highest ideals and is affected by every advance made in material progress—the State which threw the decisive weight of its resources and armies into the scales, and thus decided the future of continents, and of Europe in particular—the native land of George Washington, father of liberty, and of Abraham Lincoln, champion and martyr in the cause of brotherhood; this country, I say, cannot, and surely does not, intend for ever to turn its face against the appeal made to it by nations, which, while retaining their independence and their sovereign rights, intend to coöperate for the peace and prosperity of humanity.

The feelings thus expressed were and are unanimously shared, not only by all my fellow-countrymen of Switzerland, but by all thinking Europeans, with the one exception of the small minority of Russians and others who to-day rule Russia. That you are always welcome in Geneva, you know only too well for you have been told so perhaps too often and too subserviently. A would-be host, who is too pressing, is rarely an interesting host, and a too insistent invitation is rarely a disinterested invitation nor one that is received without suspicion!

In order to dispel any such suspicion, as far as may lay within my humble power, I will hasten to transform it into a certainty by declaring, with perfect candor, that it is entirely founded!

You are welcome, you are needed, you are wanted in Geneva. Why? Not, of course, for precisely the same reasons as those which will determine your decision, whatever it may be in the course of the

coming years. The friends and the members of the League in Europe want your coöperation because they want the League to be strong and effective. The United States, as every other Power in the world, will very naturally and very legitimately be guided in its course mainly, if not wholly, by what it deems to be in its own national interest. So, for instance, it is, I take it, because you held it to be in accordance with your own national interest that you have already joined what I have called the League to promote international coöperation.

However useful this minor League may be for its members, it is not that League that can assure the reign of peace and justice in the world. That will depend chiefly on the activities of the two others. If you have so far refrained from associating yourselves officially with the League to execute the peace treaties and with the League to outlaw war, it is not, I am certain, because you are opposed to, or not interested in peace and justice, but, if I am rightly informed, because you believe that the interests of peace and justice can best be served by your abstention.

It would be quite useless and highly improper for me to argue this point here. May I, however, as a simple Swiss citizen, in all democratic frankness, tell you how we look at it in Switzerland, where we are inclined to be very critical of the peace treaties, and where we really have no narrow national policies to promote nor any exclusive interests to serve in this matter?

We believe, as our experience of European affairs has taught us, that wars are always born of violence, intolerance, partiality, or injustice. Every act of

violence, intolerance, partiality, and injustice which the League commits or allows, ultimately makes for war and every such act which the League prevents, certainly makes for peace.

We know, on the other hand, that a war in Europe may and probably will again mean a world war. We Swiss escaped, almost miraculously, being drawn into the last. But no world power, wherever situated in the world, did or could escape it.

Our interest and our hope, as that of all the other States which place justice first on their international program, is that, by avoiding and peacefully redressing injustice in Europe, the League may save the world another such cataclysm. That is why our interest and our hope is that the one great Power, which also looks upon justice in international affairs, not only as an ideal in itself, but as a necessary condition of peace, and whose geographical position renders impartiality comparatively easy, may soon come and assume the world leadership which awaits it in Geneva.

If, as is obvious, the worst entanglement in foreign affairs is war, and if, as history shows, injustice breeds war, then the only safe way of avoiding entanglements is to avoid injustice. That the United States, without sacrificing either its full liberty, or endangering its internal peace, could prevent injustice and thereby war, merely by taking its place at the League table, is, to my mind, an indisputable fact.

May I illustrate what I mean and how I mean it in the light of one final example? In order to make it the more convincing, I shall select it not from among the activities of the League to outlaw war, but from

those of the League to execute the peace treaties, which, I take it, are the least attractive to American opinion.

The Treaty of Versailles provided that the Saar territory, which was part of Germany but whose valuable coal mines were given to France as a reparations payment, was for fifteen years to be administered by a commission representing the League of Nations. It was further provided that this commission should consist of five members chosen by the Council of the League of Nations and "include one citizen of France, one native inhabitant of the Saar Basin, not a citizen of France, and three members belonging to three countries other than France or Germany."

The obvious intention of the authors of these provisions was to place the territory in charge of a government, two of whose members would represent the conflicting Franco-German interests, but the majority of whom would be neutral, disinterested, and therefore impartial. This clause had been so drafted in the Treaty of Versailles, because the moral power of the American and British delegations combined was sufficient to oblige the unwilling French, intent upon annexation, to accept it.

When, in accordance with these provisions, the Council of the League proceeded to make the necessary appointments, what happened? The French proposed that a French prefect should be made chairman of the Commission, that the Saar member should be chosen from among the insignificant minority of German Saar citizens who favored incorporation into France, that the third member should

be a Belgian, and the fourth a Dane who had spent most of his life in Paris.

The French were as intent upon these appointments, calculated to transform an international organ into a French instrument, as they had been upon annexation. The British, who, supported by the Americans at the Peace Conference, had effectively opposed annexation and thus prevented the creation of a new Alsace-Lorraine, reluctantly concurred in these appointments when, at the Council of the League, they found themselves alone representing the principles of Anglo-Saxon fair play and impartiality.

If it is ever possible to surmise with assurance what might have been in the course of human events, one can in this case assert that it is primarily, if not exclusively, due to the abstention of the United States from participation in the League to execute the peace treaties, that the Saar, for the last five years has been governed by a partial French, instead of by an impartial international commission. Now, no single fact has caused more bitterness in Germany, none has done more to retard the re-establishment of good understanding between France and her former enemy, none is more unjust, nor more dangerous for peace. And yet here is a typical instance in which a word from the United States, or indeed the simple presence of an American on the Council would have sufficed, without creating any entanglement, to prevent acute injustice and to forestall war.

This one example will explain why the third group of States, including all the Latin Americans, which look upon justice as the prerequisite to peace, are so

particularly anxious to see America assume in Geneva the moral leadership which awaits her at their head.

M. Léon Bourgeois once ended a speech on the Permanent Court of International Justice by declaring: *ubi lux, ubi jus, ibi pax!* Where there is light, there is justice, where there is justice, there is peace!

Might I be allowed, not as a piece of parting rhetorical flattery, but as the expression of profound conviction and ardent hope, to say in my turn: *ubi America, ubi jus, ibi pax!*

I say it, not as a beggar asking for alms, not as a debtor imploring the mercy of his creditor, but as an aged and obscure friend addressing a younger and infinitely more powerful champion of his own ideals, as a son of Switzerland, which two centuries before the discovery of America, lit the torch of liberty and republican democracy in the medieval darkness of feudalistic Europe, addressing the sons and daughters of the great nation thanks to which that torch now lights up the whole world horizon.

The original Covenant of the League of Nations was an attempt to substitute international force, at the service of international justice, for international anarchy. You objected to the force, although, or rather because, you worshipped justice. The Covenant, as it now stands, deprecates the use of all force, and the League as it now is, tends through the jurisdiction of the Court and the progress of arbitration, to establish justice. Without America, it can be done but imperfectly. With America the great ideal of a peaceful and just world can be realized.

I know of no finer and grander opportunity for a

nation and for its leaders than that now offered to America: to lead and serve the world by projecting her own national ideals on the screen of international affairs, to avert war, instead of blocking the road to peace and, instead of encouraging injustice by her silence, to promote and establish justice by her living word!

The gratitude of posterity awaits the statesman who will have the vision to see, the courage to attempt, and the power to achieve this supremely magnificent purpose!

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